



April 23, 2018

Seema Verma, MPH
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Room 445-G
Hubert Humphrey Building
200 Independence Ave, SW
Washington, DC 20201

Attention: CMS-9924-P

Submitted electronically

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

Dear Administrator Verma:

On behalf of the nearly 4,300 members of the Private Practice Section (PPS) of the 100,000 member American Physical Therapy Association (APTA), I write to comment on the Department of the Treasury, Internal Revenue Service; Department of Labor, Employee Benefits Security Administration; and Department of Health and Human Services Proposed Rule regarding Short-Term, Limited Duration Insurance (CMS-9924-P), published February 21, 2018 in the *Federal Register*.

PPS is an organization of physical therapists in private practice who use their expertise to restore function, improve mobility, relieve pain, and prevent or limit permanent physical disabilities in patients with injury or disease. The rehabilitative and habilitative care they provide restores, maintains, and promotes overall fitness and health and is considered an Essential Health Benefit (EHB) which is required to be offered as part of a qualified insurance plan as defined by the Patient Protection and Affordable Care Act (ACA). However, access to physical therapy is not a mandatory element of short-term limited duration (STLD) insurance plan coverage. The proposed changes to the maximum duration of STLD health insurance products, if adopted, would likely have a detrimental impact on the quality of insurance available not only for STLD plans but across the marketplace. As small business owners, we are interested in products that will allow for access to affordable quality health insurance coverage for ourselves, our employees, and our patients; as such, we have significant concerns with the impact of the proposed rule. As the Departments work to implement the policy proposed in this rule, PPS strongly urges them to consider the following recommendations that are relevant to our membership and our patients.

PPS Recommendations

- 1. PPS urges the Departments of Treasury, Labor, and Health and Human Services to maintain the current maximum of three months duration and not extend the term of short-term limited duration health plans to a maximum of twelve months.**
- 2. PPS appreciates the goal of increasing access to insurance coverage generally but is gravely concerned about the quality of short-term limited duration health insurance plans which are not subject to the ACA's consumer protections, including standards related to the coverage of EHBs.**
- 3. Should the Departments proceed to increase the maximum term of short-term limited duration health plans, PPS urges strong notice, certification, and coverage requirements be implemented to protect against erosion of plan quality and adverse selection impact on ACA-compliant plans.**

PPS urges the Departments of Treasury, Labor, and Health and Human Services to maintain the current maximum of three months duration and not extend the term of short-term limited duration health plans to a maximum of twelve months.

Three Executive Branch departments joined together in a regulatory effort to address the cost and availability of individual market insurance by making changes to short-term health insurance coverage regulations. In October 2016 the maximum duration of a STLD health insurance plan was shortened from twelve months to three months. On February 21, 2018, the Departments of Treasury, Labor, and Health and Human Services published a proposed rule seeking to reinstate the maximum length of short-term, limited-duration insurance policies to up to one year. This proposal is in response to the October 2017 Executive Order 13813 "Promoting Healthcare Choice and Competition Across the United States" which requested proposed regulations or revised guidance to expand the availability of short-term, limited duration insurance which would cover longer periods of time and able to be renewed by the consumer.

PPS Comment:

PPS strongly urges the Departments of Treasury, Labor, and Health and Human Services not to extend the term of STLD health plans to a maximum of twelve months. Instead, PPS recommends that the Agencies maintain the current maximum of three months duration for STLD health plans. While some may cite the need for access to coverage outside of the end-of-the year enrollment period, there are already numerous qualifying life events such as a new job, marriage, divorce, and the addition of a dependent child which trigger the ability to enroll in or change health insurance products outside of the standard enrollment period. PPS is concerned that while the Administration is making it more difficult for consumers to access affordable and robust health insurance products by requiring proof to enroll after a qualifying event, it is making it significantly easier for consumers to procure short-term limited duration plans which provide inferior coverage.

PPS appreciates the goal of increasing access to insurance coverage generally but is gravely concerned about the quality of short-term limited duration health insurance plans which are not subject to the ACA's consumer protections, including standards related to the coverage of EHBs.

Short-term limited duration plans may be sold to individuals and families but are not required to comply with the ACA's private non-group market regulations which guarantee issuance and renewal of insurance coverage, prohibit annual and lifetime benefit limits, require coverage of all EHBs, and other protections. Instead STLD plans may have annual or lifetime limits, might cover fewer services, and are able to discriminate based on an individual's health status and the presence of a pre-existing condition. After the passage of the ACA, most individuals purchased these STLD plans as a way to access health insurance while between jobs or to bridge some other temporary coverage gap. It is important to note that without other coverage, someone buying a STLD policy would not satisfy the ACA's individual responsibility requirement (the individual mandate) and would be subject to a financial penalty through the end of 2018. In time for the 2019 insurance coverage year, the fine for not having qualified insurance coverage will be reduced to zero, functionally repealing the individual mandate.

PPS Comment:

The ACA established significant safeguards for consumers utilizing individual and small-group health plans by requiring that those plans feature a higher baseline of coverage. Insurers are restricted in the use of factor multipliers such as age, geographic location, and tobacco use which they may use to determine the cost of an individual or small-group plan holder's insurance premium. Out-of-pocket expenses are capped for individual health plans; the annual deductibles on small-group plans are also restricted. PPS is concerned that the Agencies' proposal would empower and result in a significant increase in the number of individuals who purchase health insurance products that bypass the consumer protections of existing laws.

Should the proposal become final, Americans would be able to purchase STLD health insurance that lasts up to a year, perhaps even after an accident or health event made it clear that costly health care would be necessary. It is unclear how many consumers would procure STLD plans with the full awareness that the insurance product they purchased did not contain the consumer protections granted to those holding individual or small-group insurance coverage. This could easily lead to situations where skimpy, low-cost coverage was insufficient to meet medical needs. As providers of rehabilitative and habilitative care, private practice physical therapists are keenly aware of the value of insurance coverage for these and other EHBs. We see, on a daily basis, the positive functional outcomes that arise directly from patient access to covered care and are concerned that Americans would, perhaps unwittingly, be purchasing STLD plans which did not meet their needs.

Should the Departments proceed to increase the maximum term of short-term limited duration health plans, PPS urges strong notice, certification, and coverage requirements be implemented to protect against erosion of plan quality and adverse selection impact on ACA-compliant plans.

The standard duration for most insurance plans, including the more robust ACA-compliant plans is for a term of twelve months. If implemented as proposed, this rule would permit so called “short-term” plans to last up to twelve months and thereby functionally compete against ACA-compliant plans on annual terms. When limiting the duration of short-term plans to three months, the previous Administration required that consumers be notified that the short-term plans did not meet the threshold of minimum essential coverage required of traditional health plans. In this proposal, the Agencies suggest that upon enrollment consumers be notified that the coverage isn’t required to comply with federal requirements for health insurance.

PPS Comment:

ACA-compliant health insurance plans and STLD health insurance plans are very different in the depth of coverage they offer. The coverage of EHBs—including rehabilitative and habilitative therapy—and the use of a single system-wide risk pool was required for ACA-compliant plans with the intent of improving overall care, addressing fundamental healthcare needs, and minimizing the range of costs for higher-risk patients. If the duration of these very different types of plans is allowed to be so similar it could easily lead to consumers mistaking a STLD to be a comparable yet cheaper product than that offered in the traditional individual or small-group insurance market. Under these circumstances, it is not difficult to imagine healthier people, who are making decisions based largely on cost, abandoning ACA-compliant markets. This adverse selection would have the impact of siphoning off healthy consumers into STLD plans and away from the more regulated and robust insurance pools of the individual and small group market. The ACA-compliant plans would remain the only option for those with pre-existing conditions or those who plan for the contingency of having higher than average health care needs and costs; however, it is expected that premiums would increase as a result of the reduction and distortion of previously diverse risk-pools.

PPS commends the Agencies for proposing to include a mandatory notice that “this coverage is not required to comply with federal requirements for health insurance”; however, it is concerning that regulators are conceding that these insurance products are not likely to meet the lowest bar of “minimum essential coverage”. To that end, PPS urges regulators to require minimum plan quality requirements for STLD health insurance plans which are valid for over three months. These minimums should include coverage for EHBs. PPS also urges the Agencies to implement a certification structure through which consumers could readily identify and compare the quality of the STLD plan they were purchasing. For example, a certification could indicate to consumers whether or not a STLD plan meets minimum essential coverage requirements.

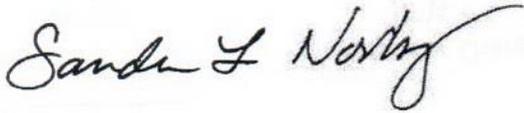
Conclusion

PPS appreciates the opportunity to share our insight and perspective with the Department of the Treasury, Internal Revenue Service; Department of Labor, Employee Benefits Security Administration; and Department of Health and Human Services on their proposed rule which would significantly extend the term of short-term limited duration health plans. We are concerned that short-term insurance plans lack adequate benefits (e.g. no EHBs required) and that if implemented, these changes will result in more individuals buying skimpier plans primarily because they are less expensive. A large increase in the number of individuals using STLD insurance plans could easily destabilize the health insurance market and lead to higher

premiums for those plans which include adequate benefits. This lack of quality insurance increases the risk of insufficient patient coverage and access to care. For our patients, this could quickly result in reduced function and have an impact not only on their quality of life but a reduction in the economic output of a community.

PPS strongly recommends that the Agencies do not allow for short-term insurance coverage to be utilized for more than three months at a time. Additionally, PPS requests that in order to provide Americans with quality choices and affordable health insurance that those purchasing STLD plans lasting more than 3 months be assured coverage for essential health benefits. We look forward to working together in pursuit of meaningful and effective regulations to ensure access to insurance coverage that meets minimum essential coverage standards and is affordable.

Sincerely,

A handwritten signature in black ink that reads "Sandra F. Norby". The signature is written in a cursive style with a large, sweeping flourish at the end.

Sandra Norby, PT, DPT
President, Private Practice Section of APTA