



December 29, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
Room 445-G-Hubert H. Humphrey Building
200 Independence Avenue SW
Washington, DC 20201

RE: “Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2022 and Pharmacy Benefit Manager Standards; Updates to State Innovation Waiver (Section 1332 Waiver) Implementing Regulations,” Proposed Rule

Dear Administrator Verma:

On behalf of the more than 54 million American adults and 300,000 children living with arthritis, the Arthritis Foundation is pleased to offer comments on the HHS Notice of Benefit and Payment Parameters for 2022. Arthritis is the leading cause of disability in the US, and people living with the disease rely on affordable, continuous access to health care to manage their symptoms.

The pandemic has greatly impacted the number of people seeking health insurance on the Exchanges, with 2021 enrollments reaching 8.2 million, a 6.6% increase over 2020 enrollment. Approximately a quarter of those were first-time sign-ups, which can in large part be attributed to the pandemic. This makes accessible, affordable care on Exchange plans more critical than ever. Our comments will focus on the following topics of particular interest to the arthritis community:

- Adequate Coverage and Patient Guardrails
- Cost-sharing Protections
- Consumer Assistance Services

Adequate Coverage and Patient Guardrails

Exchange Direct Enrollment. We are extremely concerned about the proposal to allow for decentralized enrollment in states, which we believe would create confusion among consumers and lead to an increase in inadequate coverage. We strongly opposed the Georgia 1332 waiver as a mechanism to allow subpar plans to be marketed to consumers and would strongly oppose this model being used in other states as well. Shopping for health insurance can be difficult and time-consuming, and consumers can easily be



misled into buying health plans that do not meet their needs. A centralized enrollment site like Healthcare.gov is critical to minimizing these types of practices.

1332 Waivers. The consequences from the Direct Enrollment proposal would be exacerbated by the proposal to codify 2018 guidance around Section 1332 waivers allowing states to waive certain ACA requirements. The standard used to assess acceptable coverage could include short-term limited duration health plans and association health plans, which do not provide adequate coverage for people with pre-existing conditions and those who rely on prescription drugs and other treatments and services to manage their disease.

We have also signed onto coalition comments regarding Essential Health Benefits (EHB) and Special Enrollment Periods (SEP), and urge CMS to ensure that EHB and SEP requirements are crafted to minimize the risk of adverse selection and inadequate coverage, and ensure a streamlined process by which patients have full transparency about premium subsidy and tax credit eligibility, and can choose the plan that is best suited for their financial and health care needs.

Cost-sharing Protections

Premium Adjustment and Maximum Out-of-Pocket. CMS proposes to continue the methodology used in the 2021 NBPP for 2022, which would result in a 6% increase in the premium adjustment percentage over 2021. Further, the maximum out-of-pocket would be a 6.4% increase over 2021. This could put affordability of cost-sharing out of reach for many enrollees. We urge CMS to revert to the methodology used prior to the 2020 NBPP.

Accumulator Adjustment Programs. We are concerned about the rising rate of accumulator adjustment programs across insurance markets and the subsequent impact this is having on patients. We urge CMS to return to the language in the 2020 proposed NBPP that would have prohibited plans from excluding co-pay assistance from patient cost-sharing. Many patients rely on co-pay assistance to afford their out-of-pocket costs, and given the rising rates of co-insurance for many specialty drugs, patients simply cannot afford the hundreds or even thousands of dollars out-of-pocket for each prescription fill. Particularly at a time when many people are struggling financially amid the economic fallout from the pandemic, we urge CMS to protect patients by ensuring that the co-pay assistance they rely on counts towards their cost-sharing.

Consumer Assistance

Navigator Programs. We continue to express great concern by the cuts in navigator funding over the last few years. These services are crucial for helping consumers identify the best plans for their needs, get enrolled, and manage any post-enrollment needs. Navigator services have been cut 84% since 2017, and we have seen many reports of the



difficulties this has caused for consumer assisters and for patients. We urge CMS to increase, rather than decrease, user fees to shore up consumer assistance services, including navigator programs.

Again, thank you for the opportunity to provide comments on the 2022 NBPP proposed rule. Should you have any questions or if we can be of assistance, please contact me at ahyde@arthritis.org or 202-843-0105.

Sincerely,

A handwritten signature in black ink that reads "Anna Hyde".

Anna Hyde
Vice President of Advocacy and Access
Arthritis Foundation