



July 11, 2017

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attn: CMS-9929-P
P.O. 8016
Baltimore, MD 21244-8016

**Re: Reducing Regulatory Burdens Imposed by the Patient Protection and
Accordable Care Act & Improving Healthcare Choices to Empower Patients –
CMS-9928-NC**

To Whom It May Concern:

The District of Columbia Health Benefit Exchange Authority (DCHBX) appreciates your consideration of our comments.

As a way of background, DCHBX is a private-public partnership established by the District of Columbia (District) Council to develop and operate the District's on-line health insurance *marketplace*, DC Health Link (DCHealthLink.com). DC Health Link fosters competition and transparency in the private health insurance market, enabling individuals and small businesses to compare health insurance prices and benefits and to purchase affordable, quality health insurance. Since October 1, 2013 when DC Health Link opened for business, approximately 310,000 people have enrolled in private health insurance or secured Medicaid coverage through DC Health Link. Leveraging the Affordable Care Act and DC Health Link, the District now has the lowest uninsured rate we've ever had. More than 96% of District residents now have health coverage.

A spring 2016 external survey of DC Health Link customers found that:

- 1 in 4 people who signed up for private health insurance during the last open enrollment were uninsured prior to enrollment;
- 1 in 2 people eligible for Medicaid were previously uninsured; and
- 4 in 10 small businesses did not offer health insurance to their employees prior to enrolling through DC Health Link.

Additionally, in our small group marketplace, we have seen real competition with all insurers offering some products with lower rates than in 2016 and one insurer decreasing their 2017 rate for a product by 19%. For small businesses we offer 151 different products from two Aetna Companies, three United Companies, Kaiser and CareFirst. For the first time small businesses have the same type of purchasing power as large employers and can offer the type of choices



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that large companies offer. For individuals we offer 20 different products from Kaiser and CareFirst.

Empowering Consumers

CMS should continue to support the consumer protections enacted under the ACA. The transparency requirements under the ACA, such as the summary of benefits and coverage and transparent shopping experience through on-line health insurance marketplaces are effective tools that empower consumers to make informed decisions. Through DCHealthLink.com potential and current customers can find out how their prescription medications are covered, whether their doctors participate, and can even estimate their annual health insurance costs. Recognizing the important decision-making tools available to our customers, DC Health Link was ranked number one in the nation by the Clear Choices Campaign among all state-based marketplaces and the federal marketplace in January 2017.¹ We encourage CMS to adopt policies that strengthen state-based marketplaces and to reject policies that would erode state-based marketplaces' ability to empower consumers to make informed decisions.

The ACA's insurance reforms have also empowered consumers by prohibiting long-standing industry practices like medical underwriting that meant only people in perfect health were accepted by insurers for private health insurance and gender rating that discriminated against women. After the ACA was enacted, the District immediately took steps to implement it. Now all health insurance sold to individuals, families, and small businesses must cover defined essential health benefits including primary and specialty care, hospital stays, lab work, preventive care (with no cost sharing), maternity care, mental health and substance abuse treatment. Annual and lifetime limits on coverage are prohibited. People cannot be denied coverage or charged more because they have or had a medical condition. Pre-existing medical conditions cannot be excluded from coverage. And, women are no longer a "pre-existing condition" and cannot be charged higher rates than men. There are limits of 3:1 on how much more an insurer can charge someone based on age, which makes coverage more affordable for older residents. The District went beyond minimum federal standards to prohibit insurers from tobacco rating – charging people more because they smoke. The ACA and the District's consumer protections mean that no resident is denied coverage and health insurance now works – not just when you are healthy but also when you are sick.

We strongly oppose any proposals that would allow carriers to sell bare-bones coverage, either by eliminated required benefits or shifting medical costs to consumers. New choices that provide few benefits, little financial protection, and limited access to medical care are not real choices and would result in consumers being underinsured and exposed to financial risk if they

¹ "2017 Health Insurance Exchanges: Lessons for the Online Health Insurance Marketplace," Clear Choices, January 31, 2017, available at: <http://www.clearchoicescampaign.org/news/2017/1/30/2017-health-insurance-exchanges-lessons-for-the-online-health-insurance-marketplace>. See 2017 Insurance Exchange Website Scorecard, available at https://hbx.dc.gov/sites/default/files/dc/sites/hbx/event_content/attachments/CC%202017%20InsuranceScorecard.pdf.

need medical care.

Stabilizing the Individual and Small Group Markets

Small group markets work well and are stable. Any regulatory effort by CMS may have unintended consequences of destabilizing those markets. As discussed earlier, the District of Columbia has a highly competitive small group market. Through DCHealthLink.com all insurers are offering some products with lower rates than in 2016 and one insurer decreased their 2017 rate for a product by 19% (see attached small group fact sheet). There are 151 different products from two Aetna Companies, three United Companies, Kaiser and CareFirst. We encourage CMS to focus on solutions in areas with proven problems.

There are opportunities to improve the ACA. However, regulatory actions creating risk and uncertainty – reimbursement for cost sharing reduction (CSR) and enforcement of the individual responsibility requirement – have destabilized private individual health insurance markets. Insurers have shared their concerns with the Administration that failure to guarantee CSR payments is impacting health insurers' decisions on whether to continue to offer coverage in the individual market. The impact of this continued uncertainty was outlined in the April 12, 2017 letter from the health insurance industry, health care providers, and the U.S. Chamber of Commerce to the President and to the Secretary.² The failure to guarantee payment of CSRs is expected to result in increases in health insurance premiums by as much as 20%.³ Enforcing the individual responsibility requirement is also essential to the continued stability of the individual market. The Congressional Budget Office estimated that individual market premiums would increase as much as 20-25% if the individual responsibility penalties were removed. In addition, there would be a significant increase in the uninsured rate and a substantial decrease in carrier participation in the individual market, further destabilizing the individual market.⁴

No commitment to reimburse insurers for cost sharing reductions, no commitment to enforce the individual responsibility requirement, and rhetoric on repealing the ACA have made it difficult for insurance companies in some markets to commit to selling private health insurance next year. In the District of Columbia, our two insurers in the individual market have been important partners. We urge the federal government to meet its commitments by reimbursing cost sharing reductions and enforcing the individual responsibility requirement.

Additionally, the Federal government needs to continue to fully fund consumer outreach and marketing to ensure market stability. New enrollment is critical to keeping risk pools stable. Similar to closed blocks of business aging from no new enrollment and consequently becoming

² <https://www.ahip.org/wp-content/uploads/2017/04/Joint-CSR-Letter-to-President-Trump-04.12.2017.pdf>.

³ See "Analysis: Market Uncertainty Driving ACA Rate Increases," Oliver Wyman, June 14, 2017, available at http://health.oliverwyman.com/transform-care/2017/06/analysis_market_unc.html.

⁴ Congressional Budget Office, "How Repealing Portions of the Affordable Care Act Would Affect Health Insurance Coverage and Premiums, January 2017, available at: <https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/52371-coverageandpremiums.pdf>

very expensive, lack of new enrollment in the FFM means an older and sicker risk pool. The reduction in outreach in the federally-facilitated marketplace (FFM) during the 2016-2017 open enrollment period likely contributed to the drop in enrollment from the prior year. By comparison, while the FFM experienced a drop in total enrollment during the 2016-2017 open enrollment period, DCHBX conducted robust outreach and education activities and had a 5% increase in new enrollment compared to the prior year and also saw an increase in the total number of people enrolled in individual market coverage. Investing in outreach and marketing is especially important given the upcoming shorter federal open enrollment period.

Affordability

The instability created by Administrative actions -- including not making a commitment to reimburse CSRs and to enforce the individual responsibility requirement, as well as uncertainty over future consumer protections and insurance standards -- have caused proposed 2018 health insurance rates to be higher, making health insurance more expensive. In North Carolina, one insurance carrier has proposed raising premiums by an average of 22.9% for the 2018 plan year, precisely because of the uncertainty around payment of CSRs. This carrier has said it would have sought an 8.8% increase but for the uncertainty around CSR payments.⁵ In Pennsylvania, the insurance commissioner estimates that premiums would increase by 20.3% if CSR payments are not paid.⁶ Guaranteeing CSR payments would make coverage more affordable, not only for consumers receiving CSRs, but for all individual market consumers.

Proposals to scale back benefits or increase cost sharing for consumers will not make medical care more affordable for consumers and must be rejected. These types of proposals may appear to reduce costs by lowering premiums (in the short-term), but will actually increase consumer costs and expose consumers to financial risk. Evidence shows that premium prices drive consumer behavior, but financial risk is based on all out-of-pocket spending. A lower premium with key benefits left uncovered puts consumers at risk of financial ruin.

State Role in Health Insurance Industry

We support a strong federal floor of basic consumer protections with state flexibility to go beyond and have even stronger consumer protections. This is the model that has existed since the mid-1990's with HIPAA reforms and works well. A one-size-fits-all solution by the federal government, which CMS recently adopted in restricting certain special enrollment periods,⁷ does not work in all markets and will adversely affect currently stable and robust private markets. Key to market stability is flexibility for states to adopt appropriate interventions and consumer

⁵ "Blue Cross NC Files 22.9 Percent Rate Increase for ACA Coverage in 2018," Blue Cross Blue Shield of North Carolina, May 25, 2017, available at: <http://mediacenter.bcbsnc.com/news/blue-cross-nc-files-22-9-percent-rate-increase-for-aca-coverage-in-2018>.

⁶ Letter from Pennsylvania Insurance Commissioner to Centers for Medicare and Medicaid Services Administrator, June 29, 2017, available at: http://www.insurance.pa.gov/SiteAssets/Pages/Testimony_Speeches/Verma06.29.17.pdf.

⁷ See "DC Health Benefit Exchange Authority Comments on Market Stabilization Notice of Proposed Rulemaking," March 7, 2017, available at: <https://www.regulations.gov/document?D=CMS-2017-0021-2969>.

protections to ensure stable markets that work for consumers. States have different markets and federal regulations need to recognize that. We appreciate that the role of states is recognized by Executive Order 13765, Issued January 20, 2017 instructing Agencies to “provide greater flexibility to States and cooperate with them in implementing healthcare programs.”

Conclusion

DCHBX supports market-stabilizing solutions, flexibly for states to build on federal standards, and policies that help people obtain affordable, quality health insurance. We oppose policies that may disrupt stable markets, and create barriers to consumer enrollment in health insurance. Thank you for considering our comments on issues that will directly impact DC residents and stability of our market. We look forward to working with you on these issues to empower consumers, achieve market stability and ensure that consumers have access to quality and affordable coverage.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized initial 'M' followed by a long, horizontal, slightly wavy line extending to the right.

Mila Kofman
Executive Director
DC Health Benefit Exchange Authority

