HBX
DC Health Benefit
Exchange Authority

June 18, 2019

Office of Management and Budget
9257 New Executive Office Building
725 17th Street NW
Washington, DC 20006

Re: OMB-2019-0002, Request for Comment on the Consumer Inflation Measures Produced by Federal Statistical Agencies, Directive No. 14

To Whom It May Concern:

The District of Columbia Health Benefit Exchange Authority (HBX) appreciates your consideration of our comments on the above referenced Request for Comment (RFC) issued by the Executive Office of the President, Office of Management and Budget (OMB).

By way of background, HBX is a private-public partnership established by the District of Columbia (District) to develop and operate the District's on-line health insurance marketplace, DC Health Link (DCHealthLink.com). Since we opened for business, we have cut the uninsured rate by 50% and now more than 96% of District residents have health coverage – we rank second in the nation with the lowest uninsured rate. 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. HBX also determines eligibility for District residents for advanced premium tax credits (APTC) under the Affordable Care Act (ACA).

The Administration is requesting comments on applying an alternative adjustment factor to the Official Poverty Measure rather than the long-standing Consumer Price Index for All Urban Consumers (CPI-U).[1] The alternative indexes under consideration include the Chained Consumer Price Index (C-CPI) and Personal Consumption Expenditures Price Index (PCEPI), both of which calculate a slower growth of inflation than the CPI-U.[2] As a result, using either of these inflation measures will result in lower poverty

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[1] Executive Office of the President, Office of Management and Budget, Notice of solicitation of comments, "Request for Comment on the Consumer Inflation Measures Produced by Federal Statistical Agencies," 84 Fed. Reg. 19961, May 7, 2019, (hereafter "Request for Comment").

[2] *See* R. McClelland, *Differences Between the Traditional CPI and the Chained CPI*, Congressional Budget Office Blog, April 19, 2013, https://www.cbo.gov/publication/44088; A. Aron-Dine and M. Broaddus, Center on Budget and Policy Priorities. *Poverty Line Proposal Would Cut Medicaid, Medicare, and Premium Tax Credits, Causing Millions to Lose or See Reduced Benefits Over Time*, May 22, 2019, https://www.cbpp.org/research/poverty-and-inequality/poverty-line-proposal-would-cut-medicaid-medicare-and-premium-tax.

thresholds compared to the current methodology.[3] In other words, the Administration is considering a measure that will shrink the pool of individuals and households considered to be in poverty. For both legal and policy reasons, HBX strongly opposes any effort to use a lower measure of inflation to calculate the Official Poverty Measure that will result in lower poverty thresholds, and thus fewer people being eligible for financial assistance for healthcare coverage.

The Proposed Change is Contrary to Legal Authority

The Census Bureau publishes the Official Poverty Measure annually. HHS then uses the Census Bureau's Official Poverty Measure to develop the HHS Poverty Guidelines. These guidelines are used to determine eligibility for various Federal assistance programs like Medicaid, premium tax credits, and the Supplemental Nutrition Assistance Program (SNAP).[4] Due to the significant impact on eligibility for various federal assistance programs, any changes to the poverty guidelines -- including changes to economic indexes -- must come from Congress. Congress determines the eligibility for federal programs as it directly relates to Congress' authority to appropriate funding.[5]

Specifically, "the CPI-U has been the index used for the annual adjustments" for the Official Poverty Measure since 1978.[6] To derive the annual HHS poverty guidelines, HHS must inflate the Official Poverty Measure forward by a year. In 1984, Congress chose to legislate CPI-U as the inflationary measure for deriving the official HHS poverty guidelines to ensure they are approximately equal to the poverty thresholds that the Census Bureau publishes for the previous calendar year.[7] Therefore, any attempt to change the adjustment methodology for the Census Bureau's Official Poverty Measure is contrary to long-standing precedent and goes against Congress' intent and expectation of applying a CPI-U as the inflationary index that applies to programs such as the Affordable Care Act's premium tax credits.

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[3] *See* 113th Congress, U.S. House of Representatives, Ways and Means Committee, Social Security Subcommittee on Entitlement Reform Proposals, Jeffrey King, Associate Director for Economic Analysis, Congressional Budget Office, Testimony: Using the Chained CPI to Index Social Security, Other Federal Programs, and the Tax Code for Inflation, April 18, 2013, https://waysandmeans.house.gov/legislation/hearings/social-security-subcommittee-hearing-entitlement-reform-proposals-0, testimony available at https://www.cbo.gov/sites/default/files/113th-congress-2013-2014/reports/44083_ChainedCPI.pdf.

[4] *See* Office of the Assistant Secretary for Planning and Evaluation, Dept. of Health and Human Services, 2019 Poverty Guidelines, https://aspe.hhs.gov/2019-poverty-guidelines (affirming that guidelines are based on Census Bureau poverty level).

[5] *See Helvering v. Davis*, 301 U.S. 619, 645 (1937) (stating that "[w]hen money is spent to promote the general welfare, the concept of welfare or the opposite is shaped by Congress…").

[6] Request for Comment, *supra* n. 1 at 19962.

[7] *Compare* Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, § 673, 95 Stat. 357; *with* Domestic Volunteer Service Act Amendments of 1984, Pub. L. No. 98-288, § 31(a)(2), 98 Stat 189. The amendment inserts "For All Urban Consumers" after "Consumer Price Index." *See* Office of the Assistant Secretary for Planning and Evaluation, Dept. of Health and Human Services, Frequently Asked Questions Related to Guidelines and Poverty, https://aspe.hhs.gov/frequently-asked-questions-related-poverty-guidelines-and-poverty#differences.

The Proposed Change Will Harm People and the U.S. Economy

We also oppose the proposed change because, if finalized, fewer people who live in poverty will qualify for help and the public safety net that the federal government helps to provide.

Shifting to a metric such as the Chained-CPI will lower the poverty threshold and cause individuals in the District of Columbia and across the country to lose benefits. According to the Center on Budget and Policy Priorities (CBPP), as many as *6 million* privately insured people will be forced to pay higher health insurance premiums because their APTC will be lower.[8] Of particular concern are those at 400 percent of the federal poverty level who may no longer qualify for premium tax credits at all since the change will impose a lower income limit to be eligible.[9] In addition, at least a million people - seniors, people with disabilities, children, pregnant women, and low-income adults - will no longer be eligible for other health care programs such as Medicaid with this number increasing over time.[10] Overall, more lower-income individuals and families will be at risk of losing comprehensive health coverage due to it becoming unaffordable.

The Administration has acknowledged in a previous proposed rulemaking that when poverty populations are denied public benefits such as housing, SNAP, or health benefits, the denial of those benefits causes significant negative effects such as reduced productivity, uncompensated care, increased communicable diseases, and reduced health outcomes.[11] Research has found a consistent link between lack of health insurance and premature death. According to the Institute of Medicine (IOM), lack of insurance increases the risk of dying by 25 percent.[12] In 2009, researchers estimated that approximately 45,000 uninsured people died preventable deaths.[13] According to an IOM 2002 study, the uninsured problem cost the U.S. economy between $65 billion and $130 billion annually in lost productivity.[14] Also, insured families paid an extra $1,017 annually in premiums to pay for some of the uncompensated care.[15]

The Administration's proposed methodology options will result in lower income eligibility for benefits for health coverage, health insurance, and other important safety net programs. As a result, more lower-

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[8] A. Aron-Dine and M. Broaddus, Center on Budget and Policy Priorities. *Poverty Line Proposal Would Cut Medicaid, Medicare, and Premium Tax Credits, Causing Millions to Lose or See Reduced Benefits Over Time*, May 22, 2019, https://www.cbpp.org/research/poverty-and-inequality/poverty-line-proposal-would-cut-medicaid-medicare-and-premium-tax, which estimates losses after ten years of using the proposed C-CPI.

[9] *Id.*

[10] *Id.*

[11] Dept. of Homeland Security, Notice of Proposed Rulemaking: Inadmissibility on Public Charge Grounds, 83 Fed. Reg. 51114, 51270 (Oct. 10, 2018).

[12] Institute of Medicine. *Care Without Coverage, Too Little, Too Late*. Washington, DC: The National Academies Press; 2002.

[13] A. Wilper et. al, "Health Insurance and Mortality in U.S. Adults," American Journal of Medicine. December 2009

[14] Institute of Medicine. *Hidden Costs, Value Lost: Uninsurance in America*. Washington, DC: The National Academies Press; 2003.

[15] FamiliesUSA, "Hidden Health Tax: Americans Pay a Premium," May 2009, https://familiesusa.org/sites/default/files/product_documents/hidden-health-tax.pdf

income people and families will become uninsured, placing them in financial jeopardy and limiting their access to life-saving medical care.

Conclusion

HBX supports policies that increase access to comprehensive health coverage for everyone to ensure they are financially protected and have access to medical services they need. We oppose policies that will decrease or limit the eligibility of individuals and families to obtain premium tax credits, Medicaid, or any other public benefits. As such, we urge the Administration to maintain the current CPI-U inflation factor for measuring the Official Poverty Measure. Thank you for considering our comments.

Sincerely,

Diane Lewis

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Chair, DC Health Benefit Exchange Authority