



May 6, 2019

The Honorable Seema Verma
 Administrator
 Centers for Medicare & Medicaid Services
 Department of Health and Human Services
 Attention: CMS-9921-NC
 P.O. Box 8016
 Baltimore, MD 21244-8016

Re: Patient Protection and Affordable Care Act; Increasing Consumer Choice through the Sale of Individual Health Insurance Coverage Across State Lines Through Health Care Choice Compacts; RIN 0938-ZB45

Dear Administrator Verma:

The 20 undersigned organizations represent millions of patients and consumers facing serious, acute and chronic health conditions across the country, including individuals who rely on the patient protections provided under the Affordable Care Act (ACA). Together and separately, our non-profit, non-partisan organizations are dedicated to working with the Administration, members of Congress, and state governments on a nonpartisan basis to protect the health and wellbeing of the patients and consumers we represent. Our organizations write in response to the Request for Information (RFI) concerning the sale of individual health insurance coverage across state lines.

In March of 2017, our organizations agreed upon three principles¹ to guide any work to reform and improve the nation’s healthcare system. These principles state that: (1) healthcare must be adequate,

¹ Consensus Healthcare Reform Principles. Available at: <https://www.lung.org/assets/documents/advocacy-archive/consensus-healthcare-reform.pdf>.

meaning healthcare coverage should cover treatments patients need, including all the services in the essential health benefit (EHB) package; (2) healthcare should be affordable, enabling patients to access the treatments they need to live healthy and productive lives; and (3) healthcare should be accessible, meaning that coverage should be easy to understand and not pose a barrier to care. Enrollment should be easy to understand, and benefits should be clearly defined.

The connection between access to meaningful and comprehensive health insurance and health outcomes is clear. Americans with cardiovascular disease risk factors who lack health insurance or who are underinsured have poorer blood pressure control and higher mortality rates than their insured counterparts.^{2,3} Uninsured stroke patients suffer from greater neurological impairment, longer hospital stays, and higher risk of death than similar patients with health insurance.^{4,5} Research from the American Cancer Society shows that uninsured Americans are less likely to get screened for cancer and, thus, are more likely to have their cancer diagnosed at an advanced stage when survival is less likely and the cost of care more expensive.⁶

We are concerned that the Administration's proposal to facilitate the sale of health insurance coverage across state lines would weaken consumers' access to high-quality health insurance. Coupled with the Administration's actions⁷ to allow non-compliant health insurance plans, allowing insurers to sell across state lines could jeopardize access to meaningful coverage for vulnerable patients, including those with cardiovascular disease, neuromuscular conditions, epilepsy, cancer and many others. CMS notes that the proposal has "the ultimate goal of lowering prices for coverage and increasing options for United States consumers."⁸ We are concerned that interstate sale of insurance may have the opposite effect, resulting in fewer options for meaningful coverage and increased out-of-pocket costs overall. While affordable premiums may attract consumers, higher cost-sharing through copayments, coinsurance and deductibles may create unexpected financial burdens for consumers upon using their health insurance.

The Proposal Would Erode Consumer Protections

We are concerned that the proposed approach to facilitating the sale of insurance across state lines could erode many state government consumer protections and leave policyholders with inadequate

² RTI. Projections of Cardiovascular Disease Prevalence and Costs: 2015–2035, Technical Report. Available at http://www.heart.org/idc/groups/heart-public/@wcm/@adv/documents/downloadable/ucm_491513.pdf Accessed June 19, 2017.

³ McWilliams JM, Zaslavsky AM, Meara E, Ayanian JZ. Health Insurance Coverage and Mortality Among the Near-Elderly. *Health Affairs* 2004; 23(4): 223-233.

⁴ Rice T, LaVarreda SA, Ponce NA, Brown ER. The Impact of Private and Public Health Insurance on Medication Use for Adults with Chronic Diseases. *Med Care Res Rev* 2005; 62(1): 231-249.

⁵ McWilliams JM, Meara E, Zaslavsky AM, Ayanian JZ. Health of Previously Uninsured Adults After Acquiring Medicare Coverage. *JAMA*. 2007; 298:2886–2894.

⁶ E Ward et al, "Association of Insurance with Cancer Care Utilization and Outcomes," *CA: A Cancer Journal for Clinicians* 58:1 (Jan./Feb. 2008), <http://www.cancer.org/cancer/news/report-links-health-insurance-status-with-cancer-care>.

⁷ Letter to Secretaries Azar, Acosta and Mnuchin from Patient Organizations, <https://www.heart.org/-/media/files/get-involved/advocacy/031618-insurance-regs-letter.pdf?la=en&hash=30741B38E1B13515DCB27ED59C15ABFB89FA548C>

⁸ Centers for Medicare and Medicaid, "Patient Protection and Affordable Care Act; Increasing Consumer Choice Through the Sale of Individual Health Insurance Coverage Across State Lines Through Health Care Choice Compacts" (March 11, 2019). Available at <https://www.federalregister.gov/documents/2019/03/11/2019-04270/patient-protection-and-affordable-care-act-increasing-consumer-choice-through-the-sale-of-individual>

coverage leading to higher healthcare costs. The impact of selling across state lines, particularly in the context of other Administration efforts to weaken ACA protections (including the expansion of non-compliant plans and significant reductions in funding for navigators and outreach and enrollment activities), depends upon the associated consumer protections that would or would not remain in place. Insurers would have powerful incentives to adopt standards from states with the least burdensome regulations for nongroup insurance markets, potentially putting consumers at risk.⁹

This “race to the bottom” would be exacerbated by confusion regarding regulatory authority across state lines. Absent federal clarification, insurance regulators in one state would likely find it difficult, if not impossible, to enforce the laws of another state. It is, therefore, unclear who would bear ultimate responsibility for regulating insurers or enforcing consumer protections. As the National Association of Insurance Commissioners (NAIC) noted of such a scenario, “consumers will have to hope that the regulator in a distant jurisdiction has the ability and resources to assist consumers nationwide.”¹⁰

The Proposal Could Increase Costs for Consumers

Out-of-state insurers will also lack relationships or market share with in-state hospitals and physician practices. It would be difficult for these insurers to establish networks that can compete with established in-state carriers, making it hard for out-of-state insurers to negotiate sufficiently low payment rates to enable them to offer competitively priced plans.¹¹

In fact, the weakening of consumer protections would likely lead to *higher* out-of-pocket costs for many vulnerable consumers. If insurers sell plans across state lines, catastrophic and non-compliant plans with low premiums and high out-of-pocket costs are likely to proliferate.¹² These plans are likely to disproportionately draw younger, healthier consumers, subsequently raising premiums for older, less healthy, and higher need populations who depend on comprehensive coverage to manage their health. These higher premiums could lead people to drop coverage. Meanwhile, people with health needs who do choose to purchase less-comprehensive plans may find themselves with unexpectedly high costs and inadequate coverage of the services they need. Multiple studies have shown that consumers not only have a poor understanding of how different kinds of health insurance products will impact their ability to access care but also how it will impact them financially.¹³ Allowing the sale of insurance across state lines will only further muddy consumers’ ability to select the best plan for their needs. We are concerned that people living with pre-existing conditions would be among those experiencing these higher premiums and service costs.

⁹ Blumberg LJ. Sales of Insurance Across State Lines: ACA Protections and the Substantial Risk of Eliminating Them. Urban Institute (June 2016).

¹⁰ National Association of Insurance Commissioners. Interstate Health Insurance Sales: Myth v. Reality. Available at http://www.naic.org/documents/topics_interstate_sales_myths.pdf. Accessed April 9, 2018.

¹¹ Blumberg LJ. Sales of Insurance Across State Lines: ACA Protections and the Substantial Risk of Eliminating Them. Urban Institute (June 2016).

¹² Commonwealth Fund. Essential Facts About Health Reform Alternatives: Allowing Insurance Sales Across State Lines (April 5, 2017). Available at <https://www.commonwealthfund.org/publications/explainer/2017/apr/essential-facts-about-health-reform-alternatives-allowing-insurance>

¹³ RAND Corporation. Consumer Decisionmaking in the Health Care Marketplace (2016). Available at: https://www.rand.org/content/dam/rand/pubs/research_reports/RR1500/RR1567/RAND_RR1567.pdf

Conclusion

Our organizations remain committed to ensuring access to affordable and adequate healthcare for all Americans, including those living with chronic and serious medical conditions. We oppose any proposal that would increase the number of individuals who are uninsured or would increase the number of individuals who struggle to afford meaningful, comprehensive health insurance.

We look forward to working with CMS to promote affordable and effective care. If you have any questions, please contact Katie Berge, AHA Government Relations Manager, at katie.berge@heart.org or 202-785-7909.

Sincerely,

American Diabetes Association
American Heart Association
American Lung Association
Arthritis Foundation
Cystic Fibrosis Foundation
Epilepsy Foundation
Global Healthy Living Foundation
Hemophilia Federation of America
Leukemia & Lymphoma Society
Lutheran Services in America
Mended Hearts
Mended Little Hearts
National Alliance on Mental Illness
National Hemophilia Foundation
National Multiple Sclerosis Society
National Organization for Rare Disorders
National Patient Advocate Foundation
National Psoriasis Foundation
Susan G. Komen
WomenHeart: The National Coalition for Women with Heart Disease