



April 23, 2018

The Honorable Alex Azar  
Secretary of Health and Human Services  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

**Re: Short-Term, Limited-Duration Insurance Plan Proposed Rule**

Dear Secretary Azar,

The **I Am Essential** coalition of patient and community organizations, representing millions of patients and their families, appreciates the opportunity to submit comments on the [short-term, limited-duration insurance proposed rule](#) (short-term plans) to the Department of Health and Human Services. These comments, supported by 97 patient groups, express serious concern regarding the reversal of previously established guardrails for enrollment in short-term plans and the impact it will have on the health of individuals, in particular those living with chronic and serious conditions. This rule, if finalized, will have a crippling effect on individuals' healthcare and long-lasting implications on the stability of the health insurance market.

**Proposed Rule Redefines "Short Term" that is No Longer "Short Term"**

The proposed rule would extend enrollment in short-term plans to 364 days, well beyond the previously restricted three-month duration maximum and would allow beneficiaries to renew their contract. Short-term plans were purposely limited, serving primarily as a stop-gap measure for insurance coverage in times of transition; these plans are not designed to support comprehensive access to healthcare. By relaxing duration restrictions, consumers may opt to utilize these plans as an alternative to Affordable Care Act (ACA)-compliant health plans, not knowing the risk they take on as these plans do not meet minimum essential coverage and utilize substandard health benefit design that can be harmful to beneficiaries' health.

Furthermore, the proposed rule outlines changes to existing regulations allowing short-term plans to renew a consumer's coverage. Renewability won't necessarily guard a consumer against being charged a higher premium after receiving a cancer, HIV, epilepsy, or other diagnosis. As health status is not static, short-term plans are not a viable option for health insurance for individuals with previously diagnosed conditions or even for those with a clean bill of health at the time coverage begins.

**Short Term Plans Do Not Provide Critical Patient Protections and Health Benefits**

The guidelines and regulations established by the ACA to protect patients would not apply to short-term health plans, exposing beneficiaries to a myriad of harmful practices by health plans. Despite the

intention of the executive order to expand consumer choice, short-term plans would restrict access to healthcare.

Mandated in statute, ACA plans must cover a comprehensive set of essential health benefits (EHBs) which ensures access to benefits like prescription medications that people living with chronic conditions depend on to maintain their quality of life. Because they do not have to cover EHBs, the quality of the plans sold under the short-term umbrella will fall far short of what consumers would expect a health insurance plan to cover. Patients may be surprised when they experience severely restricted access or complete exclusion of prescription drug coverage, mental health and substance abuse services, or hospital emergency coverage when they need them. Even if the plan indicates it covers a certain essential benefit, the breadth of that service can fall short of what patients need and plans can place artificially low limits on the number of visits or prescription medications. Plans would not have to follow existing regulations that require their formularies to cover at least the same number of drugs in each state's benchmark plan, consider newly approved medications, utilize Pharmacy and Therapeutics Committees for formulary review, or follow prevailing treatment guidelines. Failing to cover basic benefits one would expect will leave beneficiaries paying monthly premiums for substandard coverage without any guarantee of protection and access to health care.

Additionally, under short term plans, beneficiaries could be subject to lifetime dollar limits or dollar limits on certain benefits, something that was outlawed by the ACA. Imposing annual and lifetime dollar limits would place an undue burden on patients who become ill while being covered by a short-term plan.

Before the passage of the ACA, patients with serious and chronic conditions would be subject to insurer discrimination based on pre-existing conditions; being refused coverage or charged more because of a health condition. Barring federal protections, short-term plans will allow health insurance plans to again discriminate based on health status. Not only can short-term plans cherry pick beneficiaries by choosing not to cover an individual based on a pre-existing condition, if an individual receives a diagnosis while covered the plan can conduct a rigorous review of their medical history to determine if there was indication they received medical advice, previous diagnosis, or recommended treatment which would therefore conclude a condition was pre-existing and grounds for rescission of coverage.

The proposed rule states that short-term plans would be required to be sold with a disclaimer stating that the plan does not qualify as health coverage, or minimum essential coverage, and does not satisfy the coverage requirements of the ACA. However, since short-term plans give the illusion of coverage, and will carry lower premiums than ACA compliant plans, people will most likely gravitate to them, particularly if marketing methods do not fully communicate the limitations and risks.

Additionally, under these plans a beneficiary could find their payments made toward the deductible not counting towards the maximum out-of-pocket costs, high cost-sharing on preventive services, and being on the hook for one hundred percent of uncovered service or treatment costs. All of these negative practices of the past should not outweigh the appeal of a lower premium. Short-term plans could ultimately cost patients their health as they choose between financial hardship and seeking care.

### **Proposed Rule Undermines Stability of Health Insurance Market**

The proposed harmful policy changes will impact not just individuals who experience restricted benefits when they suddenly need them, but the stability of the Marketplace and the greater healthcare system.

Short-term plans will undoubtedly deplete the ACA-compliant market of younger, healthier individuals, essentially creating two risk pools; the high-risk, ACA-compliant market, and a pool of healthier people in short-term plans. The high-risk pool premiums will skyrocket as insurers attempt to counter the high costs for their more care-dependent beneficiaries.

The additional strain on the individual market will mean insurers will be less incentivized to participate in the ACA Marketplace as they weigh the risk of covering a pool of individuals who are more care-dependent, and therefore, have higher medical claims. If short-term plans were to multiply, it would create more pressure on insurers to pull out of the ACA market and leave consumers with fewer choices, a direct conflict with the intention of the President's executive order to provide greater choices. Furthermore, with less competition in the ACA market, insurers will have more ability to set prices and benefit designs that will serve their own interest and not those of beneficiaries.

Expanding access to short-term plans will have a negative impact on the total number of people insured; Escalating premiums, the elimination of the individual mandate, and the expansion of short-term plans, taken together, will add to the uninsured rate by an estimated of 6.4 million, according to a report by the Urban Institute.<sup>1</sup> A high uninsured, or underinsured, population will certainly burden our hospitals, providers, and health systems as uncompensated care rises. It will also endanger peoples' lives. The combined effects of the association health plan rule, the elimination of the individual mandate, reductions in Navigator funding, and the short-term plan rule will work to destabilize the ACA Marketplace, with patients bearing the brunt of the impact.

If finalized, the proposed rule will do more harm than good for both those who purchase a short-term plan and people with complex chronic conditions who rely on the patient protections created by the ACA.

### **Commitment to Quality Healthcare**

If the Department of Health and Human Services is committed to providing affordable and quality health care through innovative and sustainable solutions, then you must not finalize the rule as proposed. **I Am Essential** strongly urges the Department to consider the implications of the short-term plan proposed rule and patients' health and well-being. We believe that redefining short-term plans, as proposed, would take away comprehensive health benefits and patient protections, increase healthcare costs on individuals and the healthcare system, and put greater strain on the individual health insurance market.

Should you have any questions or comments, please contact: Carl Schmid, Deputy Executive Director, The AIDS Institute, [cschmid@theaidsinstitute.org](mailto:cschmid@theaidsinstitute.org); Beatriz Duque Long, Senior Director, Government Relations, Epilepsy Foundation, [bduquelong@efa.org](mailto:bduquelong@efa.org); or Andrew Sperling, Director of Federal Legislative Advocacy, National Alliance on Mental Illness, [asperling@nami.org](mailto:asperling@nami.org). Thank you very much.

Sincerely,

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<sup>1</sup> Blumberg, L., Buettgens, M., Wang, R. (February 2018) The Potential Impact of Short-term Limited-Duration Policies on Insurance Coverage, Premiums, and Federal Spending. *Urban Institute*.

Action Wellness  
 ADAP Advocacy Association  
 Adult Congenital Heart Association  
 AIDS Action Baltimore  
 AIDS Alliance for Women, Infants, Children,  
 Youth & Families  
 The AIDS Institute  
 Alliance for Aging Research  
 Alpha-1 Foundation  
 American Academy of HIV Medicine  
 American Association on Health and Disability  
 American Autoimmune Related Diseases  
 Association  
 American Behcet's Disease Association (ABDA)  
 American Society for Metabolic and Bariatric  
 Surgery  
 Arthritis Foundation  
 Asthma and Allergy Foundation of America  
 Bailey House, Inc.  
 Bronx Lebanon Family Medicine  
 California Hepatitis C Task Force  
 Cancer Support Community  
 Caregiver Action Network  
 Caregiver Voices United  
 Chronic Disease Coalition  
 Coalition on Positive Health Empowerment  
 Community Access National Network (CANN)  
 Consumers for Quality Care  
 Cutaneous Lymphoma Foundation  
 Dab the AIDS Bear Project  
 Depression and Bipolar Support Alliance  
 Dialysis Patient Citizens  
 Easter Seals Massachusetts  
 EFI  
 Epilepsy Foundation Central & South Texas  
 Epilepsy Foundation Greater Dayton Region  
 Epilepsy Foundation Iowa  
 Epilepsy Foundation New England  
 Epilepsy Foundation Northwest  
 Epilepsy Foundation of Arizona  
 Epilepsy Foundation of Connecticut  
 Epilepsy Foundation of Greater Chicago  
 Epilepsy Foundation of Greater Southern Illinois  
 Epilepsy Foundation of Hawaii  
 Epilepsy Foundation of Indiana  
 Epilepsy Foundation of Michigan  
 Epilepsy Foundation of Minnesota  
 Epilepsy Foundation of Missouri & Kansas  
 Epilepsy Foundation of Nevada  
 Epilepsy Foundation of Oklahoma  
 Epilepsy Foundation of Utah  
 Epilepsy Foundation of Vermont  
 Epilepsy Foundation-Alabama  
 Georgia Rural Urban Summit  
 Global Healthy Living Foundation  
 Global Justice Institute  
 Hemophilia Federation of America  
 Hepatitis C Allies of Philadelphia (HepCAP)  
 Human Rights Campaign  
 Hypertrophic Cardiomyopathy Association  
 International Association of Hepatitis Task  
 Forces  
 International Foundation for Autoimmune &  
 Autoinflammatory Arthritis  
 International Pain Foundation  
 International Pemphigus and Pemphigoid  
 Foundation  
 International WAGR Syndrome Association  
 Lakeshore Foundation  
 Latino Commission on AIDS and Hispanic Health  
 Network  
 Legal Action Center  
 Lupus and Allied Diseases Association  
 Lymphoma Research Foundation  
 Men's Health Network  
 Mental Health America  
 NAMI Pierce County  
 NASTAD  
 National Alliance on Mental Illness  
 National Association of Nutrition and Aging  
 Services Programs (NANASP)  
 National Consumers League  
 National Council for Behavioral Health  
 National Hemophilia Foundation  
 National Kidney Foundation  
 National Minority Quality Forum  
 National Multiple Sclerosis Society  
 National Organization for Rare Disorders  
 (NORD)  
 National Patient Advocate Foundation  
 National Psoriasis Foundation  
 National Stroke Association  
 National Women's Law Center  
 New Jersey Association of Mental Health and  
 Addiction Agencies, Inc.  
 Obesity Action Coalition

Obesity Medicine Association  
Patient Access Alliance  
Prevent Cancer Foundation  
Susan G. Komen  
The Epilepsy Foundation  
The Hepatitis C Mentor and Support Group-  
HMSG

The Obesity Society  
The Veterans Health Council  
US Pain Foundation  
Vasculitis Foundation  
Vietnam Veterans of America  
Virginia Hemophilia Foundation

cc: Seema Verma, Administrator, Centers for Medicare and Medicaid Services