April 23, 2018

The Honorable Alex Azar  
Secretary  
Department of Health and Human Services

The Honorable R. Alexander Acosta  
Secretary  
Department of Labor

The Honorable Steven Mnuchin  
Secretary  
Department of Treasury

Re: Proposed Rule on Short-Term, Limited Duration Insurance, CMS-9924-P

Dear Secretary Azar, Secretary Acosta, and Secretary Mnuchin:

The undersigned organizations, representing cancer patients and health care professionals, appreciate the opportunity to comment on the tri-agency proposed rule on short-term, limited-duration insurance.

We have serious reservations about the proposed rule and its possible negative impact on cancer patient access to adequate and affordable health insurance. We understand that the proposed rule at hand, the proposed rule on association health plans, and the still unreleased proposal on health reimbursement arrangements are intended to put into effect the directives of Executive Order 13813, Promoting Healthcare Choice and Competition Across the United States. A fundamental goal of that Executive Order was to provide “...high-quality care at affordable prices for the American people.” Our analysis suggests that the short-term, limited-duration insurance proposal falls far short of that goal.
Short-Term, Limited Duration Insurance

We do not anticipate that people undergoing cancer treatment or those living with a cancer diagnosis would evaluate or choose short-term, limited-duration insurance coverage. The proposed rule itself explains why these plans would not be adequate for cancer patients. The proposal states, “Short-term, limited-duration insurance policies would be unlikely to include all the elements of PPACA-compliant plans, such as the preexisting condition exclusion prohibition, coverage of essential health benefits without annual or lifetime dollar limits, preventive care, maternity and prescription drug coverage, rating restrictions, and guaranteed renewability.”

People living with cancer would be unlikely to choose short-term, limited-duration plans if they have other options. In fact, these individuals would have to undergo medical underwriting for short-term plans and would probably not be able to purchase such coverage. However, it is possible that individuals who are living without a preexisting condition on the day they purchase insurance might choose barebones short-term plans. If those individuals receive a cancer diagnosis during the term of the insurance plan, they will likely find the coverage to be inadequate for the care they need for their cancer. The choices for cancer patients with short-term, limited-duration insurance will be obtaining care by assuming serious out-of-pocket expense for that care, delaying care, or changing their recommended course of care to more easily afford it. Cancer patients will also likely find themselves addressing serious financial toxicities caused by paying for their care without meaningful insurance coverage.¹

The proposed rule includes recommended language of a notice to consumers regarding the limits of short-term, limited-duration insurance plans. We recommend that the language of the notice be significantly revised so that it adequately conveys to consumers the limits of the insurance plans they are considering. In fact, the language of the proposed rule regarding the limitations of short-term plans (included above in this comment letter) conveys the substantial weaknesses of these plans. Of course, a strong warning is not a sufficient protection to consumers. Protecting consumers is best achieved by adhering to plan standards of the Affordable Care Act and abandoning efforts to expand use of short-term plans.

The proposed rule also assumes that those who are diagnosed with serious health issues while insured through short-term, limited-duration insurance will be able to shift to the ACA market when necessary. We offer two serious cautions about this solution. First, at best this will leave patients with the difficult task of seeking to obtain adequate insurance after cancer diagnosis and will probably result in delays in necessary care. Second, this plan will create further stresses in the individual market, if patients can abandon their short-term insurance coverage for the individual market when they have substantial health care needs.

The Impact of Short-Term, Limited-Duration Insurance on Insurance Markets

The proposed rule on short-term, limited-duration insurance plans will have another significant impact on cancer patients by undermining the individual insurance market and making access to adequate and affordable insurance options more difficult. Short-term, limited duration plans – which will likely offer limited benefits and high cost-sharing with lower premiums than ACA-compliant plans -- will attract young and healthy individuals and leave a sicker and older population in the individual market.

We refer to the language of the proposed rule for a description of its potential impact. The rule states, “... individuals who are likely to purchase short-term, limited-duration insurance are likely to be relatively young or healthy. Allowing such individuals to purchase policies that are not in compliance with PPACA may impact the individual market single risk pools.” The tri-agency proposal states that there will be limited effects from the proposal, including: 1) a modest shift of 100,00 to 200,000 individuals from the individual market to the short-term, limited-duration market; 2) a projection that only 10 percent of those who shift from the individual market to short-term coverage would have been eligible for premium subsidies; 3) a modest increase in premiums ($4) for plans on the exchanges, and 4) an increase in federal premium subsidy expenditures, in the range from $96 to $168 million annually, as the result of premium increases.

Independent analyses suggest that the agencies’ projections of impact of the proposed rule understate the effects on consumers. The Urban Institute concludes that the combined impact of eliminating the individual mandate and expanded short-term, limited-duration insurance would be an increase in ACA-compliant nongroup insurance premiums of 18.2 percent in 2019 in the 43 states that do not prohibit or limit short-term plans, and a 9.3 percent increases in federal spending in 2019 due to the elimination of the individual mandate and the introduction of short-term plans.2

**********

The short-term, limited-duration insurance plan proposed rule will put cancer patients at risk. First, those individuals who are living without a preexisting condition on the day of purchase of short-term, limited duration insurance and are diagnosed with cancer during the term of coverage will find their insurance to be inadequate for their cancer care needs. These individuals will also most likely confront financial toxicity as they seek care while insured through short-term plans. Second, the diversion of the young and healthy Americans to short-term insurance plans will undermine the individual market risk pool. For those cancer patients who obtain coverage through the individual market, choices will be more limited and more expensive.

The proposed rule is at odds with the goals of improving access to affordable and adequate insurance. We recommend that the proposed rule be withdrawn.

Sincerely,

Cancer Leadership Council

CancerCare
Cancer Support Community
The Children’s Cause for Cancer Advocacy
College of American Pathologists
Fight Colorectal Cancer
International Myeloma Foundation
The Leukemia & Lymphoma Society
Lymphoma Research Foundation
National Coalition for Cancer Survivorship
Ovarian Cancer Research Fund Alliance
Prevent Cancer Foundation
Susan G. Komen