CLASP
Policy solutions that work for low-income people

March 2, 2020

Secretary Alex Azar
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS–9916–P

Re: Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2021, CMS-9916-P

Dear Secretary Azar,

I am writing on behalf of the Center for Law and Social Policy (CLASP). CLASP is a national, nonpartisan, anti-poverty nonprofit advancing policy solutions for low-income people. We work at both the federal and state levels, supporting policy and practice that makes a difference in the lives of people living in conditions of poverty. CLASP submits the following comments in response to the Department of Health and Human Services and the Center for Medicare and Medicaid Services Notice of Proposed Rulemaking: *Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2021*.

Automatic Enrollment

CLASP strongly opposes the provisions of Part 155 (Exchange Establishment Standards and Other Related Standards Under the Affordable Care Act: Automatic Reenrollment Process) of the proposed regulation. This policy claims to encourage active coverage decisions but actually—and arbitrarily—penalizes eligible individuals and will result in large coverage losses.

Under current policy, a consumer who does not update their income during marketplace open enrollment is automatically renewed into the same health plan for the next year *with the same tax credits*. This helps provide continuous coverage to individuals who may not be aware of open enrollment, who have limited English proficiency, or low health insurance literacy. With auto enrollment, these individuals can maintain their health insurance with the same financial support. This commonsense policy helps keep people covered.

With this proposal, HHS would no longer allow for automatic renewal for individuals whose tax credit covers the full cost of the premium and the enrollee pays $0. As proposed, this rule would arbitrarily penalize individuals simply because they have a $0 premium plan, which has no bearing on whether someone is eligible for some or all of their Advanced Premium Tax Credits (APTCs).

If these consumers do not update their income and other financial information, they would have to pay a premium to reenroll. They will not receive their tax credits until they update their financial information, *even if there are no changes to report*.

Ending automatic re-enrollment *with APTCs* for individuals who would have $0 premium plans will cause individuals to lose coverage or experience gaps in coverage. They may be unaware of how to update their information or how to correct the penalty. When these consumers return to the marketplace, they may be unable to pay or late to pay the penalty premium—causing them to lose coverage. The impacts of losing health insurance—and even small gaps in coverage—are well documented and profound. Individuals without health insurance often delay or forgo needed care, leading to worse health care outcomes, unmanaged chronic conditions, and preventable illnesses.

Rather than penalizing individuals for failing to update their information, HHS should put significant resources into educating consumers about the importance of proactively updating their eligibility information and reviewing plan options. Particular efforts should be made to support individuals with low health insurance literacy and those with limited English proficiency. Unfortunately, outreach and education efforts have been substantially cut and funding for advertising, marketing, outreach and the Navigator program has dropped dramatically. HHS should immediately restore outreach and enrollment efforts to support the necessary education to help consumers at reenrollment.

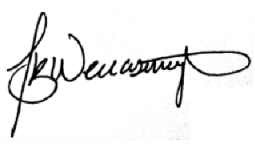
Essential Health Benefits

The proposed rule imposes a burdensome requirement which will deter states from improving their EHB benchmark plans. Several states are using current authority to update their EHB benchmark plans and expand services in critical areas. Under HHS' proposal, states would need to submit an annual report that: identifies all state-required benefits regardless of whether those benefits are considered part of EHB; provides information explaining why the state believes the mandate is or is not part of EHB; and provides information about any mandate that has been amended or repealed. As a result, states will likely be reluctant to improve or expand benefits under the EHB benchmarking process, fearing that such improvements may run afoul of the complex mandate reporting requirements. This may impede the provision of benefits like outpatient services in mental and behavioral health.

CLASP is concerned that the proposed administrative tasks outlined above will not only cause coverage losses, but they will create unnecessary burdens for states. We encourage HHS to withdraw this proposal.

Thank you for the opportunity to submit comments. If you have any questions, please reach out to Isha Weerasinghe, Senior Policy Analyst, at **iweerasinghe@clasp.org**.

Sincerely,



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