

National President and CEO
Harold P. Wimmer

March 2, 2020

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

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
P.O. Box 8016
Baltimore, MD 21244

RE: Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2021

Dear Secretary Azar and Administrator Verma:

The American Lung Association appreciates the opportunity to submit comments on the Department of Health and Human Services (HHS) Notice of Benefit and Payment Parameters for 2021 (NBPP) proposed rule.

The American Lung Association is the oldest voluntary public health association in the United States, currently representing the nearly 37 million Americans living with lung diseases including asthma, lung cancer and COPD. As such, the Lung Association is uniquely positioned to comment on the impact this proposed rule will have on lung disease patients.

Unfortunately, a number of provisions in the proposed rule could jeopardize healthcare coverage and increase healthcare costs for patients. The Lung Association therefore urges HHS to modify the proposed rule in the following areas.

Automatic Re-enrollment

The proposed rule would modify automatic re-enrollment for individuals who enrolled in coverage with a zero premium the previous year by re-enrolling them but without any or some portion of the premium tax credits for which they are eligible. This policy jeopardizes health coverage for thousands of low-income Americans; for the 2019 open enrollment period, approximately 270,000 individuals were automatically reenrolled through HealthCare.gov

Advocacy Office:

1331 Pennsylvania Avenue NW, Suite 1425 North
Washington, DC 20004-1710
Ph: 202-785-3355 F: 202-452-1805

Corporate Office:

55 West Wacker Drive, Suite 1150 | Chicago, IL 60601
Ph: 312-801-7630 F: 202-452-1805 info@Lung.org

in coverage with zero premium, after the application of premium tax credits. The Lung Association strongly opposes this change and urges HHS not to include it in the final rule.

If individuals with zero premium coverage did not return to Healthcare.gov to obtain a new eligibility determination – quite possibly because they were unaware that any action needed to be taken – these individuals would receive substantial unexpected bills and would likely have their coverage terminated for nonpayment of a premium they cannot afford. The current automatic renewal process protects consumers who might have missed the open enrollment period and helps keep enrollment in the exchanges stable, creating premium stability for both consumers and issuers. In response to a request for information about automatic re-enrollment in last year's NBPP, commenters voiced unanimous support for automatic re-enrollment and explained why that process and a range of other existing enrollment and eligibility mechanisms both aid consumers and safeguard federal spending. The Lung Association strongly encourages HHS to maintain the current policy of auto renewal for all marketplace customers.

Prescription Drug Access

Access to prescription medications is vital for patients to manage their lung disease. The proposed rule would impact the affordability of prescription medications by allowing issuers and group health plans to determine whether to count drug manufacturer coupons toward an enrollee's out-of-pocket limit, which could increase actual out-of-pocket costs for patients with lung disease. Furthermore, the proposed rule does not require clear disclosure of plan policy, only stating that it expects this notification will occur. Particularly since HHS is proposing to change a newly adopted policy, the Lung Association is concerned that consumers who use these drug coupons may expect the coupons to count toward their annual limit, and not learn of plan rules excluding coupons until after they incur costs they thought would be covered. If any changes in policy regarding drug manufacturer coupons are included in the final rule, we urge HHS to, at a minimum, require issuers and group health plans to provide a clear description of their policy regarding drug manufacturer coupons to all enrollees and prospective enrollees, in all materials that consumers may use to select, plan and understand their benefits.

Essential Health Benefits

As we noted in our comments last year,¹ the Lung Association has grave concerns with the Administration's policy aimed at weakening essential health benefit (EHB) requirements in the 2019 Notice of Benefit and Payment Parameters, allowing states to mix and match benefit structures in a way that could reduce patients' access to care. The Lung Association is concerned that the changes allowed under this policy, combined with other administrative actions finalized by the Administration such as the de-regulation of association health plans and short-term plans and guidance on 1332 waivers, could allow states to loosen patient protections. This policy gives states authority to offer not just less generous coverage, but the *least* generous coverage – jeopardizing the integrity of the ACA and the policies that underpin quality and affordable healthcare. The Lung Association reiterates our ask that HHS reverse these policies.



Premium Adjustment Percentage Index

Under the revised methodology adopted last year, the premium adjustment percentage index will grow more quickly and increase the maximum out of pocket costs (MOOP) allowed for all private insurance enrollees, including those with employer-sponsored coverage. For individuals and families enrolled in individual or employer-based coverage, the burden is substantial: the proposed 2021 annual limit on cost-sharing is \$8,550 for self-only coverage and \$17,000 for other than self-only coverage. The Lung Association fears that more patients will be forced to choose between massive medical bills and forgoing needed care, leading to worse health outcomes and increased costs for the health system.² As we noted last year,³ this impact will only worsen over time, as the MOOP continues to increase at a faster rate than it would have absent a change in policy. We once again urge the Administration to revise their policy in this critical area.

The American Lung Association appreciates the opportunity to submit comments on this important rule and urges HHS to keep patients at the forefront when creating new policies that impact the accessibility, adequacy and affordability of healthcare.

Sincerely,



Harold P. Wimmer
National President and CEO

¹ American Lung Association, Comments on Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2020 (CMS09926-P), Feb. 19, 2019. Available at:

<https://www.lung.org/assets/documents/advocacy-archive/american-lung-association-32.pdf>.

² Multiple studies for the Medicaid population bare this out. See for example: Chernew M, Gibson TB, Yu-Isenberg K, Sokol MC, Rosen AB, Fendrick AM. Effects of increased patient cost sharing on socioeconomic disparities in health care. J Gen Intern Med. 2008. Aug; 23(8):1131-6.

³ American Lung Association, Comments on Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2020 (CMS09926-P), Feb. 19, 2019. Available at:

<https://www.lung.org/assets/documents/advocacy-archive/american-lung-association-32.pdf>.

