

October 20, 2021

Michael Conway  
Commissioner, Colorado Division of Insurance  
1560 Broadway, Suite 850  
Denver, CO 80202

**Comments on DRAFT Preliminary Emergency Regulation 21-E-XX (Concerning Colorado Standard Option Health Benefit Plan)**

Dear Commissioner Conway:

We would like to thank you and your team for your efforts to carry out a transparent process for developing Colorado's standard plan design. This is a complex undertaking and, with a variety of opportunities for the public to engage in the process, we hope that the result will be a product that helps the patients we serve and other consumers with serious health conditions who are seeking affordable, quality healthcare.

Our organizations represent millions of patients and consumers who face serious, acute, and chronic health conditions. We have a unique perspective on what individuals and families need to prevent disease, cure illness, and manage chronic health conditions. The diversity of our organizations and the populations we serve enable us to draw upon a wealth of knowledge and expertise that is an invaluable resource as we work to find solutions to expand access to high-quality coverage.

Below we have outlined our feedback on the draft regulation, including the principles we hope will guide your decision-making to ensure that those with chronic or life-threatening conditions have affordable, quality options to choose from. We would note that we do not see mention of Cost Sharing Reduction (CSR) plans in the draft, and would welcome any clarifications that might put the proposed cost-sharing values in their full context.

***Ensure that the out-of-pocket cost for any one prescription is manageable***

We appreciate your commitment to keeping coinsurance out of the draft plan's drug benefit structure, consistent with state insurance regulation 4-2-58. With that said, we are concerned that the highest copay amounts for the draft standard plans sometimes exceed the copay amounts for copay-only-compliant plans currently sold on the Colorado market. We encourage the department to explore lower copay amounts or other coverage mechanisms, such as the pre- and post-deductible coverage-cap approach introduced to New Jersey markets in 2021<sup>i</sup>, to improve consumer access to medications.

Prescription medications, particularly those in specialty categories, are critical to the treatment of life-threatening diseases and conditions. When cost-sharing becomes a barrier to access, patients do not use their medications appropriately, skipping doses to save money or

abandoning a treatment altogether. In a survey done of people with employer-sponsored insurance, approximately half of respondents reported skipping or postponing care or prescription drugs due to cost.<sup>ii</sup> A cancer-specific study from 2011 found that high cost-sharing was associated with higher abandonment rates.<sup>iii</sup>

***Sizable deductibles could reduce access to care***

The deductibles for the draft standard plans are also a point of concern to us, especially in comparison to their 2021 ACA individual market counterparts. Numerous studies have demonstrated that higher deductibles cause consumers to delay or avoid necessary care – including early screenings.<sup>iv,v,vi,vii</sup> We would encourage your team to push for additional reductions in deductible levels to help consumers manage the costs of their care as fully as possible.

***Improve network adequacy to protect cancer patients' access to care***

As you know, the benefits guaranteed to consumers through their health plans are essentially unusable if in-network providers are not available to deliver the necessary care at the right time. For example, a recently published report on access to out-of-network subspecialty cancer care in ACA marketplace plans found that while patients are often able to receive out-of-network care at in-network prices, the complex and time-intensive effort needed to make this happen often includes claims denials, difficult to navigate appeals processes, and harmful delays in treatment. This situation occurs in part because of insurers' reliance on narrow networks to control costs. One of the troubling side-effects of narrow networks is reduced patient access to specialty care at cancer centers, which can lead to higher overall costs of care over time.<sup>viii</sup>

The report identified seven opportunities for state lawmakers and regulators to reduce the frequency and impact of narrow network policies. Many of these recommendations are within the scope of the standard plan development process, and we would encourage your team to review the report's findings to improve network adequacy for our patients and other Coloradans who may wish to purchase a standard plan.

***Improve network standards and promote nondiscrimination standards to advance health equity***

We applaud your team's efforts to improve health equity through the ACA marketplace as part of implementing the Colorado Option. Opportunities in this space include but are not limited to:

- Holding insurers accountable to network adequacy standards that reduce disparities in access to care for underserved populations
- Ensuring adequate access to translation services in coverage-related settings
- Expanding non-discrimination compliance, including stronger data collection to help with compliance evaluation<sup>ix</sup>

## Conclusion

We greatly appreciate DOI's work to create standard plans that will provide Coloradans with more options for affordable, quality health coverage that works for them. We hope our comments will improve the utility of these plans for people living with chronic and life-threatening diseases and reduce the challenges they face in accessing care.

If you have questions or would like additional information, please contact Dana Bacon at [dana.bacon@lls.org](mailto:dana.bacon@lls.org) or 612.308.0479.

Sincerely,

American Cancer Society Cancer Action Network  
American Lung Association  
Arthritis Foundation  
Chronic Care Collaborative  
Epilepsy Foundation of Colorado & Wyoming  
Hemophilia Federation of America  
The Leukemia & Lymphoma Society  
National Multiple Sclerosis Society  
National Organization for Rare Disorders

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<sup>i</sup> See New Jersey A2431, 2018-19 session pamphlet law: [https://www.njleg.state.nj.us/2018/Bills/PL19/472\\_.HTM](https://www.njleg.state.nj.us/2018/Bills/PL19/472_.HTM)

<sup>ii</sup> Hamel, L., Munana, C. & Brodie, M. (May 2, 2019). Kaiser Family Foundation/LA Times Survey Of Adults With Employer-Sponsored Insurance. *Kaiser Family Foundation*. <https://www.kff.org/report-section/kaiser-family-foundation-la-times-survey-of-adults-with-employer-sponsored-insurance-section-2-affordability-of-health-care-and-insurance/>

<sup>iii</sup> Streeter, S.B., Schwartzberg, L., Husain, N., Johnsrud, M. (May 1, 2011.) Patient and Plan Characteristics Affecting Abandonment of Oral Oncolytic Prescriptions. *Journal of Oncology Practice*. <https://ascopubs.org/doi/full/10.1200/jop.2011.000316>

<sup>iv</sup> Zheng, Zhiyuan, et al. (August 8, 2019) High-Deductible Health Plans and Cancer Survivorship: What Is the Association With Access to Care and Hospital Emergency Department Use?. *An American Society of Clinical Oncology Journal*. <https://ascopubs.org/doi/pdf/10.1200/JOP.18.00699>

<sup>v</sup> Wharam, J. Frank, et al. (November 20, 2018) High-Deductible Insurance and Delay in Care for the Macrovascular Complications of Diabetes. *Annals of Internal Medicine*. <https://www.acpijournals.org/doi/10.7326/M17-3365>

<sup>vi</sup> Loehrer, Andrew P. et al. (September 2021) Association of Cost Sharing With Delayed and Complicated Presentation of Acute Appendicitis or Diverticulitis. *Jama Health Forum*. <https://jamanetwork.com/journals/jama-health-forum/fullarticle/2783875>

<sup>vii</sup> Wharam, J. Frank, et al. (March 2019) Vulnerable And Less Vulnerable Women In High-Deductible Health Plans Experienced Delayed Breast Cancer Care. *Health Affairs*. <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2018.05026>

<sup>viii</sup> The Leukemia & Lymphoma Society and Manatt Health (September 2021). Accessing Out-of-Network Subspecialty Cancer Care in Marketplace Plans: Key Findings From a Scan of Four States. <https://www.lls.org/sites/default/files/2021-09/Network-Adequacy-September-2021-Final.pdf>

<sup>ix</sup> Keith, K. (August 10, 2021). How Insurers Can Advance Health Equity Under the Affordable Care Act. *Commonwealth Fund*. <https://www.commonwealthfund.org/blog/2021/how-insurers-can-advance-health-equity-under-affordable-care-act>