



February 11, 2022

The Honorable Kevin Hern
United States House of Representatives
Washington, DC 20515

The Honorable Rick Allen
United States House of Representatives
Washington, DC 20515

The Honorable Victoria Spartz
United States House of Representatives
Washington, DC 20515

Dear Representatives Hern, Allen, and Spartz:

Thank you for the opportunity to provide input to the Healthy Future Task Force's Affordability Subcommittee.

The American Lung Association is the oldest voluntary public health association in the United States, currently representing more than 36 million individuals living with lung diseases, including asthma, lung cancer and chronic obstructive pulmonary disorder (COPD). The Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease through research, education and advocacy.

The Lung Association shares the goal of improving the affordability of healthcare for individuals with and at risk for lung disease and other pre-existing conditions. In our federal action plan, we have identified a number of policy priorities that we believe would make healthcare more affordable for the patients we represent while also ensuring that their healthcare coverage continues to provide the comprehensive benefits they need to manage their conditions.ⁱ These include increasing and expanding subsidies for marketplace coverage, addressing the family glitch and lowering patients' out-of-pocket costs in Medicare Part D. We would welcome the opportunity to discuss these additional priorities with you.

The Lung Association offers the following comments on the Request for Information.

I. Improving Healthcare for America's Workers and Small Business Owners

The Lung Association filed commentsⁱⁱ expressing serious concerns with the March 2018 proposed rule expanding access to association health plans (AHPs). These concerns were not addressed in the final rule released in June 2018.ⁱⁱⁱ As we outlined in a March 2021 report with other leading patient advocacy organizations, AHPs do not have to comply with key patient protections, such as covering essential health benefits, have a long history of fraud, and contribute to consumer confusion that leads patients to enroll in plans that do not meet their medical needs.^{iv}

The Lung Association has urged the administration to repeal the June 2018 rule and asked Congress to consider legislation that would limit the sale and purchase of AHPs and other insurance products that do

not provide the patients protections of the ACA. The Lung Association would not support additional legislation that expands the ability of employers to form AHPs.

III. Increasing Transparency and Marketplace Innovation

Section 1332 waivers allow states to innovate with policies that improve the affordability of comprehensive coverage while ensuring that the key protections of the Affordable Care Act are not jeopardized. The program includes crucial statutory guardrails. Federal law prohibits a waiver from being approved unless a state can demonstrate that, under its waiver program: coverage will be as affordable as it would be without the waiver; coverage will be as comprehensive as it would be without the waiver; a comparable number of people will be covered under the waiver as would be without it; and that the waiver will not add to the federal deficit.

The Lung Association strongly opposed the previous administration’s guidance on Section 1332 waivers – released in 2018 and codified in the 2022 Notice of Benefit and Payment Parameters – that significantly undermined quality and affordable healthcare for patients with pre-existing conditions.^v The guidance made it easier for states to use federal taxpayer dollars to promote sub-standard plans that do not provide comprehensive and affordable coverage, and it tipped the scales in favor of insurance products that are inadequate to meet the needs of the millions of patients and consumers our organization represents. This policy was repealed in 2021, a decision that the Lung Association strongly supported.^{vi}

Within the current guidelines, states already have the ability to develop waivers that address the affordability of coverage. For example, many states (including Alaska, Colorado, Delaware, Georgia, Maine, Maryland, Minnesota, Montana, New Hampshire, New Jersey, North Dakota, Pennsylvania, Rhode Island and Wisconsin) have applied and received approval for waivers establishing reinsurance programs. A recent report found that states with reinsurance waivers have experienced significantly lower individual market premiums than they would have otherwise and have seen gains in insurer participation.^{vii}

The Lung Association does not believe that any changes to the statutory language regarding Section 1332 waivers are needed at this time, including any changes to the firewall between Section 1332 and Section 1115 waivers. States can continue to pursue innovative policies to improve affordability without jeopardizing key patient protections, especially for individuals with lung diseases and other pre-existing conditions, without any additional action by Congress in this area.

Thank you for the opportunity to provide comments.

Sincerely,



Deborah P. Brown
Chief Mission Officer
American Lung Association

ⁱ <https://www.lung.org/policy-advocacy/federal-action-plan/access-to-care-priorities>

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- ⁱⁱ <https://www.lung.org/getmedia/dc8930c6-f1cb-4115-986f-db35806039c6/ala-comments-dol-rin-1210-ab85.pdf>
- ⁱⁱⁱ <https://www.lung.org/media/press-releases/final-ahp-rule-weakens-key>
- ^{iv} https://www.lung.org/getmedia/5b240c9a-72ec-4217-bc75-d416e6f69f51/undercovered_report.pdf
- ^v <https://www.lung.org/getmedia/fd7ca753-c9f3-4db5-83a1-14732cdaa6ef/health-partner-comments-re-2.pdf.pdf>
- ^{vi} [https://www.lung.org/getmedia/7d1c05de-dc64-47e4-8ed4-d56aab28e3ea/american-lung-association-comments-re-2022-nbpp-part-3-\(final\).pdf](https://www.lung.org/getmedia/7d1c05de-dc64-47e4-8ed4-d56aab28e3ea/american-lung-association-comments-re-2022-nbpp-part-3-(final).pdf)
- ^{vii} Centers for Medicare and Medicaid Services, Center for Consumer Information and Insurance Oversight (CCIIO). State Innovation waivers: State-Based Reinsurance Programs. August 2021. Available at: <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/1332-Data-Brief-Aug2021.pdf>.