The Colorado Health Foundation™

Comments on “Patient Protection and Affordable Care Act; Marketplace Integrity and Affordability”

April 9, 2025

Mehmet Oz, Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-9884-P
P.O. Box 8016
Baltimore, MD, 21244-8016
Document Number 2025-04083

RE: Comments on “Patient Protection and Affordable Care Act; Marketplace Integrity and Affordability”

Dear Administrator Oz:

The Colorado Health Foundation (CHF or the Foundation) appreciates the opportunity to provide comments to inform the Centers for Medicare and Medicaid Services’ (CMS) proposed efforts to promote integrity and affordability in the Affordable Care Health Insurance Marketplace. We agree that program

integrity is important but are deeply concerned that the proposed rule will reduce enrollment and increase the number of people who are uninsured. According to CMS' estimates, as a result of the proposals in this rule, up to two million people across the country would disenroll from Marketplace coverage in 2026, many of whom would have no other options for affordable health care available to them, potentially leaving them uninsured. We are gravely concerned that these reductions in coverage would ultimately lead to both poorer heath for millions of people across the country and significant strain on healthcare providers' capacity to continue to operate and provide services in their communities.

As a nonprofit and nonpartisan private foundation, CHF works statewide to advance our mission to improve the health of Coloradans. Through community engagement, grantmaking, research, and private sector investments, our work aims to ensure that everyone in Colorado has what they need to be healthy. Maintaining access to affordable, high-quality health, and consistent health insurance coverage is a key part of this.

The Foundation strongly opposes provisions of CMS' proposed rule that reinstate structural barriers preventing access to adequate health care coverage. In particular, we oppose the proposal to eliminate eligibility for Deferred Action for Childhood Arrivals (DACA) recipients to enroll in Marketplace and Basic Health Program coverage and receive premium assistance. This change would worsen ongoing barriers to accessing health care coverage and services for DACA recipients, leaving many without an affordable coverage option. According to the 2023 survey of DACA recipients conducted by the National Immigration Law Center (NILC), United We Dream, and the Center for American Progress (DACA), DACA recipients are nearly three times as likely to be uninsured than the general population in the U.S. DACA recipients make immense contributions

into the social and economic fabric of Colorado's communities. Thousands are health care professionals or other essential workers who worked in the front lines of the pandemic response in Colorado. CMS' proposal would deny these individuals the opportunity to receive quality health care and lead healthier lives. The proposal should be withdrawn.

Additionally, the Foundation strongly opposes the proposal to prohibit issuers from offering "sex-trait modification" as an essential health benefit (EHB). This change would deny medically necessary care to persons diagnosed with gender dysphoria, a serious medical condition associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning that results from an incongruence between one's sex assigned at birth and one's gender identity. The standard of care for treatment of gender dysphoria is based on evidence-based clinical guidelines from the World Professional Association for Transgender Health (WPATH) and Endocrine Society. CMS's proposed rule excluding treatment for gender dysphoria could lead to issuers dropping coverage or shifting costs to consumers and states. The proposal targets transgender and nonbinary people, who already experience discrimination in accessing health care. According to the 2022 U.S. Trans Survey of binary and nonbinary transgender people, approximately 1 in 4 respondents (26 percent) had at least one issue with their insurance company in the last 12 months, such as being denied coverage for hormone therapy, surgery, or another type of health care related to their gender identity/transition; gender-specific health care because they were transgender; or routine health care because they were transgender. The proposal should be withdrawn.

Additionally, the Foundation opposes sections of the proposed rule that impose administrative barriers that make it harder for consumers, especially those with

low incomes, to enroll in Marketplace coverage. Specifically, we oppose the following proposals: (1) allowing issuers to deny new coverage for failure to pay premiums for prior coverage; (2) shortening the annual open enrollment period for all Marketplaces, including State-based Marketplaces, to November 1 through December 15, instead of November 1 through January 15; and (3) eliminating the monthly special enrollment period for people at or below 150 percent of the federal poverty level. Finally, the Foundation opposes the proposal to widen actuarial value requirements, as it would erode the value of coverage and cause confusion about coverage options. These proposals should be withdrawn.

The Foundation urges CMS to withdraw the aforementioned proposals and appreciates your consideration of our comments. Please contact Kyle Rojas Legleiter, Colorado Health Foundation Senior Director of Policy, at Show email or Show phone with any questions you might have.

Sincerely,
Kyle Rojas Legleiter
Senior Director of Policy
The Colorado Health Foundation

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BY

Kyle Rojas Legleiter