



September 11, 2023

The Honorable Chiquita Brooks-LaSure, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Submitted via www.regulations.gov

RE: Short-Term, Limited-Duration Insurance; Independent, Noncoordinated Excepted Benefits Coverage; Level-Funded Plan Arrangements; and Tax Treatment of Certain Accident and Health Insurance (CMS-9904-P).

Dear Administrator Brooks-LaSure:

The Alliance of Community Health Plans (ACHP) appreciates the opportunity to submit recommendations in response to the Short-Term Limited Duration Insurance (STLDI) proposed rule to support enhanced consumer experience and greater competition and efficiency in the marketplace. Consumers deserve a robust market with fierce competition and broad choices. We strongly support providing consumers with ample choice and clarity on coverage options that best meet individual's needs.

ACHP represents the nation's top-performing, nonprofit health plans that provide high-quality coverage and care to tens of millions of Americans in nearly 40 states, and D.C. Our member companies serve diverse populations across all lines of business and are well-positioned to help consumers navigate a changing insurance market.

ACHP strongly supports efforts to increase transparency of STLDI plans, including bridging gaps in coverage to protect and empower consumer choice. We offer the following recommendations on the timelines for implementation and to protect consumers seeking coverage options, particularly with the significant number of consumers impacted by Medicaid redeterminations.

Redefining Duration Limits for STLDI Plans

ACHP supports the redefinition of STLDI plans to clearly articulate that it offers coverage that has a maximum duration of four months. STLDI plans fill temporary gaps in coverage, typically for individuals that are experiencing a brief lapse in comprehensive coverage and are transitioning from one source of insurance to another. The definition of plan duration for these products was modified to allow for extensions in coverage, up to three years, enticing consumers to gravitate towards STLDIs, not realizing that those coverage options may not be suitable for their health needs. The marketing and sale



of these plans in place of ACA-regulated, comprehensive coverage created instability in the marketplace by splitting the markets and posed financial hardships for consumers with complex health needs.

ACHP supports returning the definition of STLDI to its original intent of providing truly “limited duration” coverage for consumers. This more appropriately reflects the goal of STLDI plans which is to provide a temporary solution for consumers experiencing gaps in coverage. These products should not be confused with, nor substituted for comprehensive coverage options with important consumer protections.

Consumer Notices

ACHP supports explicit consumer disclosures which clarify that STLDI and excepted benefit plans are not comprehensive medical coverage. We further suggest the inclusion of additional naming conventions that require the use of terms like “limited” “limited benefit” or “non-comprehensive” to also signal to consumers that the product they are purchasing is not comprehensive medical coverage.

Existing Plan Effective Dates

ACHP recommends CMS evaluate the impact of grandfathering existing plans and effective dates on market stability. The proposed rule will allow existing plans to complete their full term (including any extensions), which could be substantial on market stability. Paired with the 60-day lag before the plan’s effective date, this grandfathering could induce a “fire sale” opportunity, potentially steering consumers into lower cost, and equally lower benefit, plans just ahead of the effective date. **We recommend CMS allow existing plans to expire without the possibility of extensions.**

Level-Funded Plans

ACHP supports protections for small businesses and consumers of level-funded plans. Level-funded plans function and are regulated as self-funded plans but contain features that mimic fully insured plans. Some of our member companies offer level-funded products, mainly to provide a competitive offering that could be attractive to small employers with low claims utilization. However, our member companies *do not* promote them to individual consumers who would otherwise purchase ACA plans instead. We support measures that would deter favorable selection into these non-ACA- compliant plans so that the ACA market remains stable.

ACHP supports protections for small businesses and consumers of level-funded plans to prevent confusion regarding the risks and benefits associated with purchasing this type of product. We are of the belief that many small employers are unaware of the complexities and requirements of level funding and the move from the rich benefit set of an ACA plan to a leaner plan can be a source of member confusion and frustration.

Marketing Practices of Limited Benefit and STLDI Products



ACHP recommends CMS examine the marketing practices of STLDI plans. The health insurance marketplace will undergo a massive shift, akin to that of the launch of Healthcare.gov, as millions of consumers who relied on Medicaid for coverage are transitioning to other forms of insurance during the Medicaid redeterminations process. Medicaid enrollees are often high need individuals, already navigating a host of other socioeconomic disparities, such as poor health literacy and general access issues. Many will be navigating the individual market for the first time and will need additional guidance to ensure they are making the best choices for their needs.

There has been a concerning rise in aggressive and misleading marketing of limited benefit products, such as STLDI plans, specifically targeting individuals searching for coverage during this turbulent time. A recent secret shopper survey¹ conducted by Georgetown University found that former Medicaid enrollees seeking coverage on the private market faced misleading information regarding their coverage options. For example, consumers that were eligible for \$0 premium, \$0 deductible plans were not informed of their options, and were rather steered towards limited benefit offerings. Additionally, sales representatives withheld information regarding coverage restrictions present in limited benefit products, such as critical essential health benefits.

Consumers are especially vulnerable during this time, as they deal with changes to their care following loss of Medicaid coverage. **We urge CMS to protect consumers by monitoring aggressive marketing practices by brokers and carriers offering limited benefit products to ensure that consumers do not incur undue costs due to misinformation.**

ACHP reiterates our strong support for consumers maintaining access to comprehensive coverage and care. Please contact Nissa Shaffi, Associate Director of Public Policy, at nshaffi@achp.org, with any questions or to discuss these recommendations further.

Sincerely,

Dan Jones
Senior Vice President, Federal Affairs
Alliance of Community Health Plans

¹ <https://georgetown.app.box.com/v/the-perfect-storm-august-2023>