



August 16, 2023

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

The Honorable Douglas W. O'Donnell
Deputy Commissioner for Services and
Enforcement
Internal Revenue Service
1111 Constitution Ave NW
Washington, DC 20224

The Honorable Lisa M. Gomez
Assistant Secretary, Employee Benefits
Security Administration
Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

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

Dear Secretary Becerra, Assistant Secretary Gomez, and Deputy Commissioner O'Donnell:

On behalf of the American Academy of Family Physicians (AAFP), representing 129,600 family physicians and medical students across the country, I write in response to the notice of proposed rulemaking, "Short-Term, Limited-Duration Insurance; Independent, Non-coordinated Excepted Benefits Coverage; Level-Funded Plan Arrangements; and Tax Treatment of Certain Accident and Health Insurance" as published in the [Federal Register](#) on July 12, 2023.

The AAFP applauds the Departments for proposing to strengthen consumer protections for short-term limited-duration health care plans. The AAFP has long advocated for improved access to affordable, [meaningful](#) health insurance that enables patients to access the health care services they need. We are concerned that deceptive marketing practices are being used to enroll individuals into short-term limited-duration (STLD) plans.ⁱ While we recognize that STLD plans could briefly support affordable access to health coverage for certain individuals, limited oversight of these plans has resulted in confusion and insufficient coverage for patients. Without comprehensive coverage and protections for individuals with pre-existing conditions, low-quality insurance plans threaten access to primary care and can saddle patients with catastrophic medical bills. **This proposed rule is an important step forward to ensure access to affordable, high-quality health care for all.**

The AAFP previously [opposed](#) a 2018 rule that encouraged sales of STLD and other low-value plans exempt from consumer protections such as the requirement to cover pre-existing conditions or essential health benefits. We [called](#) on President Biden to rescind those regulations once he took office. The 2023 proposed rule would revise standards set by this 2018 rule, provide more meaningful oversight of STLD plans, and ensure STLD plans are used and provided as originally intended by Congress.

STRONG MEDICINE FOR AMERICA

President
Tochi Iroku-Malize, MD
Islip, NY

President-elect
Steven Furr, MD
Jackson, AL

Board Chair
Sterling Ransone, MD
Deltaville, VA

Directors
Jennifer Brull, MD, *Plainville, KS*
Mary Campagnolo, MD, *Bordentown, NJ*
Todd Shaffer, MD, *Lee's Summit, MO*
Gail Guerrero-Tucker, MD, *Thatcher, AZ*
Sarah Nosal, MD, *New York, NY*
Karen Smith, MD, *Raeford, NC*

Teresa Lovins, MD, *Columbus, IN*
Kisha Davis, MD, MPH, *North Potomac, MD*
Jay Lee, MD, MPH, *Costa Mesa, CA*
Rupal Bhingradia, MD (New Physician Member), *Jersey City, NJ*
Chase Mussard, MD (Resident Member), *Portland, OR*
Richard Easterling (Student Member), *Madison, MS*

Speaker
Russell Kohl, MD
Stilwell, KS

Vice Speaker
Daron Gersch, MD
Avon, MN

Executive Vice President
R. Shawn Martin
Leawood, KS

Specifically, this proposed rule seeks to amend the definition of “short-term” and “limited-duration” to ensure that plans are not used long-term. Currently, patients can remain on an STLD plan for up to 36 months. This proposal would reduce the original contract term to no more than three months under the revised definition of “short term”, with one month of additional renewal under the revised definition of “limited duration.” **The AAFP strongly supports this proposal and agrees that STLD plans are not meant for long-term use and should be capped appropriately.**

Further, this proposed rule would implement stricter requirements for disclosure of coverage limits and require plans to clarify the difference between STLD insurance and comprehensive coverage, including other options for coverage in plain language. **The AAFP supports this proposal and agrees that oversight of STLD marketing practices is necessary to ensure patients find meaningful coverage.** The AAFP supports the Departments’ use of language that succinctly shows important differences between STLD plans and comprehensive coverage and shares where consumers can enroll in marketplace plans in the table on page 44617. The AAFP urges the Departments to also require clear information regarding STLD coverage or lack of coverage for maternity care, pediatric services, the most common chronic conditions, preexisting conditions, and associated treatments, visits, and other ancillary services in any notice.

Specified Disease Excepted Benefits

The Departments request information on specified disease excepted benefits coverage, which provides a cash benefit related to the diagnosis or the receipt of items or services related to the treatment of one or more medical conditions specified in the insurance policy, certificate, or contract of insurance. Some forms of specified disease excepted benefits coverage pay benefits based on diagnosis or treatment for a single condition (such as diabetes), while others pay benefits related to diagnosis or treatment for a disease category (such as cancer).

The AAFP supports additional notice requirements for specified disease excepted benefits that clearly distinguish such plan from comprehensive coverage. A required notice would likely differ from the STLD notices in so far as a comparison to marketplace coverage would likely not be necessary. However, the AAFP encourages the Departments to require a notice that clearly states which federal protections do and do not apply to specified disease excepted benefit plans, as well as statements indicating the plan does not provide comprehensive coverage and which essential health benefits are not included.

Thank you for the opportunity to provide these comments. We look forward to continuing our work with your agencies to ensure all individuals have access to comprehensive, meaningful coverage. For additional questions, please contact Morgan Bailie, Senior Regulatory Specialist, at mbailie@aafp.org.



Sterling Ransone, Jr., MD, FAFAP
American Academy of Family Physicians, Board Chair

ⁱ Dania Palanker, JoAnn Volk. Misleading Marketing of Non-ACA Health Plans Continued During COVID-19 Special Enrollment Period. October 2021. Georgetown University Health Policy Institute. <https://georgetown.app.box.com/s/mn7kgnhbn4kapb46tqmv6i7putry9gt>