



January 22, 2021
The President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Re: Recommendations for Improving Health Care Coverage, Affordability, and Access

Dear Mr. President:

On behalf of the American Academy of Family Physicians (AAFP), which represents more than 136,700 family physicians and medical students across the country, I write to commend you on taking immediate action to protect public health. As your Administration reviews federal regulations and prepares additional executive and regulatory actions, the AAFP respectfully offers the below recommendations. The AAFP is committed to securing comprehensive, affordable health care coverage for all Americans and we look forward to working with your Administration to advance these shared goals.

Family physicians provide comprehensive primary care services to patients across the lifespan. They are also equipped to address most health care needs, including preventive care, chronic diseases, acute illnesses and injuries, and obstetric care. Accordingly, family physicians often serve as patients' first contact with the health care system and coordinate care provided by various clinicians across the care team. Family physicians are also serving on the front lines of the COVID-19 pandemic, witnessing first-hand the inequitable impact COVID-19 is having on their patients and communities.

The AAFP firmly believes that all people should have affordable health care coverage that provides comprehensive access to evidence-based health care services, including coordinated, longitudinal primary care. We are strongly supportive of the Patient Protection and Affordable Care Act (ACA) and remain committed to building on the progress the ACA has made in increasing the rates of health care coverage, improving access to primary care services, protecting patients with pre-existing conditions, and expanding coverage of essential benefits.

Unfortunately, a myriad of policies enacted over the last several years have undermined this progress and worsened health care coverage and affordability. In 2018, the U.S. Census Bureau reported that the number of Americans without health insurance had risen, for the first time in a decade, by about 2 million people.ⁱ After hitting a historic low in 2016, the child uninsured rate increased to 5.7 percent, or about 726,000 children, from 2017 to 2019.ⁱⁱ More recently, 1.9 million adults became uninsured from May to June due to the COVID-19 pandemic.ⁱⁱⁱ A 2019 analysis found that individual market premiums increased by 6 percent due to the repeal of the individual mandate and the proliferation of short-term limited duration (STLD) and other non-compliant plans.^{iv}

STRONG MEDICINE FOR AMERICA

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In 2015, 2016 and 2017 the average life expectancy in the U.S. declined, putting us further behind other developed countries.^v The U.S. also has the highest rates of preventable deaths –an indictment of our health care system where many Americans lack access to health care services and delayed and forgone care leads to higher disease burden.^{vi} In short, swift action is needed to reverse these negative consequences, improve access to affordable primary care services, and build a more robust health care safety net.

Strengthen and Expand Private Insurance Coverage

- **Delay and revise the Notice of Benefit and Payment Parameters for Plan Year 2022 (CMS-9914-F).** By allowing states to opt out of using healthcare.gov or their own state-based exchange and rely solely on brokers and insurers to enroll consumers in individual market plans, this final rule will fragment the insurance enrollment process and impede access to primary care. This rule also codified the harmful 2018 Guidance on the use of 1332 waivers into regulation. The AAFP [called](#) for this rule to be rescinded and we strongly urge you to delay its implementation so it can be revised.
- **Reverse Association Health Plan regulations (RIN 1210-AB85).** Under current regulation, association health plans are permitted to reject coverage for consumers with pre-existing conditions and charge higher premiums based on gender, age, industry, and medical history. AAFP [policy](#) explicitly indicates that these protections are essential and must be included in all regulations and we expressed [opposition](#) during the rulemaking process.
- **Reverse STLD Plan regulations (CMS-9924-F).** These regulations expand STLD plans, which are exempt from consumer protection requirements, subject consumers to catastrophic medical bills, and have been shown to increase premiums across the individual market. The AAFP has steadfastly [opposed](#) the proliferation of low-value plans and we strongly urge you to reverse the harmful effects of these regulations.
- **Reinstate outreach and navigator funding for enrollment in Medicaid, CHIP, and individual market plans to at least 2016 levels.** Despite consumers reporting that they highly value and need enrollment assistance, outreach and navigator funding has decreased by 84 percent since 2016.^{vii} Data indicate that enrollment assistance is essential – 40 percent of individuals with Medicaid or marketplace coverage said it was unlikely they would have coverage without consumer assistance.^{viii} We urge your Administration to restore funding to at least 2016 levels to facilitate enrollment in affordable, comprehensive health plans.
- **Restore Section 1332 Waiver guardrails.** The 2018 1332 waiver [guidance](#) conflicts with a plain language interpretation of the ACA by allowing states to implement policies to undermine the Medicaid program and bolstering the availability of non-ACA compliant plans. The AAFP [opposed](#) this guidance and urges your Administration to implement policies to ensure 1332 waivers can only be used to expand coverage and facilitate access to high-value, affordable health care.
- **Open a special enrollment period (SEP) for the COVID-19 pandemic.** The Department of Labor reported earlier this month that employment declined by 140,000 jobs in December, and more than 10.7 million individuals are unemployed. Many of these individuals lost their employer sponsored health insurance coverage, and as a result the AAFP [called on Congress](#) to open an SEP to ensure individuals can enroll in coverage amid the pandemic. Without affordable health coverage, many individuals may forgo needed health care services, exacerbating the spread of COVID-19 and the inequitable impact on underserved communities.

- **Defend the ACA from litigation that would undermine access to comprehensive coverage and patient protections.** The AAFP participated in an [amicus curiae](#) brief in the California v. Texas case and has repeatedly [urged](#) the Department of Justice to defend key patient protections established by the ACA.
- **Lengthen the individual market open enrollment period.** In 2017, CMS finalized regulations to cut the open enrollment period in half. The AAFP [opposed](#) this decision and urges your Administration to lengthen the open enrollment period and give Americans adequate time to shop for, compare, and enroll in marketplace plans.
- **Reverse the Exchange Program Integrity rule (CMS-9922-F).** This burdensome rule interferes with the patient-physician relationship and creates barriers to maintaining coverage for patients. We previously [warned](#) of the negative consequences of these regulations and recommend you reverse them.

Protect Medicaid Safety Net

- **Revise 1115 demonstration waiver guidance.** The AAFP's [Medicaid Core Principles](#) state that Medicaid section 1115 waivers must maintain or strengthen benefits and affordability protections, limit barriers to eligibility and coverage, maintain or strengthen access to any qualified provider, preserve and enhance existing funding mechanisms, and sustain and strengthen transparency, stakeholder engagement and impact evaluation. We urge you to review and revise waiver guidance in accordance with these objectives.
 - **Revise waiver approval criteria.** In 2017, CMS revised its criteria for evaluating whether section 1115 waivers further Medicaid program objectives. We urge you to restore the criteria to include expanding coverage and remove or revise language around promoting responsible beneficiary decision-making to ensure it is not misconstrued or used to limit beneficiaries' access to care.
 - **Rescind work requirements guidance.** The "Opportunities to Promote Work and Community Engagement" guidance encouraged states to impose work requirements as a condition of continued Medicaid coverage. Medicaid work requirements resulted in low-income adults losing their Medicaid coverage, delaying needed care, and an increase in medical debt.^{ix} The AAFP supports voluntary programs to assist Medicaid enrollees in obtaining a job or gaining skills but [opposes](#) conditioning eligibility on participation and urges you to issue revised guidance to state Medicaid Directors.
 - **Rescind block grant guidance and reject block grant waivers.** The "Healthy Adult Opportunity" guidance provided states with options for adopting a capped financing model for certain Medicaid populations which, if adopted, could lead to significant benefit cuts and fewer beneficiaries receiving coverage.^x The AAFP [opposes](#) allowing states to move to a block grant financing mechanism, and we urge you to rescind this harmful guidance and reject any waivers seeking block grants or other financing restrictions that threaten coverage.
- **Reject and review potentially harmful waivers.** We urge your administration to reject any pending waivers that would implement work requirements or seek to impose premiums or high cost-sharing on Medicaid beneficiaries and to review approved 1115 waivers to evaluate whether they are promoting Medicaid program objectives, including protecting beneficiaries' access to coverage and care.

- Suspend/Rescind Promulgated Rules
 - **Revise Medicaid and CHIP Managed Care regulations (CMS-2408-F) to restore network adequacy requirements.** The AAFP [opposed](#) recent regulatory changes that removed network adequacy requirements for managed care plans and we urge you to restore the 2016 time and distance network adequacy requirements, and we [recommend](#) setting standards for appointment wait times to better ensure access to care for beneficiaries.
 - **Strengthen maintenance of effort (MOE) requirements for the duration of the COVID-19 public health emergency.** The AAFP urges you to abandon the alternative interpretation of the MOE statutory requirement in the recent interim final rule entitled Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency (CMS-9912-IFC) and restore the previous requirements, which are consistent with congressional intent. The AAFP [opposed](#) the alternative interpretation of MOE requirements, which requires states to move Medicaid beneficiaries between enrollment categories during the PHE and raised concerns that the alternative interpretation would lead to the loss of benefits.
 - **Reverse Title X regulations entitled Compliance with Statutory Program Integrity Requirements (RIN 0937-ZA00).** This harmful rule severely impedes access to comprehensive, evidence-based reproductive health services for low-income Americans and interferes with the patient-physician relationship. The AAFP [commented](#) in strong opposition to these regulations and we urge you to reverse them and strengthen the Title X program.
 - **Reverse Inadmissibility on Public Charge Grounds rule (RIN 1615-AA22).** The AAFP [opposed](#) these regulations, which dramatically expanded the definition for when immigrants may be considered a “public charge” in order to intimidate them and disincentivize many patients from seeking needed health care services. More recently, we [called](#) on the previous Administration to cease enforcing this regulation amid the COVID-19 pandemic.
- **Strengthen Medicaid outreach and enrollment efforts.** Data suggest that enrollment assistance is essential for Medicaid and CHIP enrollees.^{xi} In addition to reinstating outreach and navigator funding, we urge you to encourage states to expand outreach and enrollment efforts to ensure those who are eligible for Medicaid and CHIP are enrolled and have access to affordable primary care services.

Shore Up Non-Discrimination Protections

- **Repeal Executive Order on the Establishment of a White House Faith and Opportunity Initiative (No. 13831).** This Executive Order cleared the way for various federal agencies to promulgate regulations that eliminate and undermine nondiscrimination protections. The AAFP [stands firmly against](#) discrimination of any kind and urges your Administration to ensure all federal policies facilitate access to care for all patients.
- **Reverse Section 1557 Rule (RIN 0945-AA11).** The AAFP [opposed](#) the changes made by this rule, which weakens critical protections for LGBTQ+ patients, those with limited English proficiency, those with disabilities, and those who are seeking access to comprehensive reproductive health care. We remain deeply concerned that these regulations sanction discrimination against already vulnerable patient populations and we urge you to reinstate the protections codified by Section 1557 of the ACA.
- **Reverse regulations entitled Equal Participation of Faith-Based Organizations in the Federal Agencies’ Programs and Activities.** The AAFP is concerned that these rules will exacerbate health

inequities and impede access to care by eliminating requirements refer patients to alternative providers and to notify beneficiaries of nondiscrimination protections. AAFP policy states that [nondiscrimination](#) protections and alternative provider [referrals](#) are essential to accessing and providing high-quality primary care.

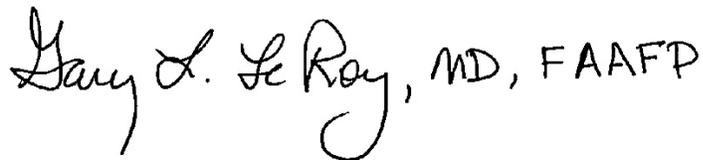
- **Delay the Health and Human Services Grant regulation (RIN 0991-AC16).** The AAFP is concerned that this rule weakens non-discrimination protections and requirements for federal grantees and will negatively impact access to care for LGBTQ+ patients and those seeking access to reproductive health services from grantees. It is not yet in effect and should be delayed.

Fortify Federal Health Agencies

- **Delay Securing Updated and Necessary Statutory Evaluations Timely (SUNSET) rule (RIN 0991-AC24).** The AAFP [opposed](#) this rule, which requires HHS and its agencies to dedicate limited resources to conducting a burdensome and unnecessary retrospective regulatory review. We remain concerned that this regulation will undermine the Department's ability to perform its mission of furthering access to high-quality, affordable health care for all Americans.
- **Reverse Department of Health and Human Services Good Guidance Practices regulations (RIN 0991-AC17).** This rule significantly undermines the Department's ability to administer Medicare, Medicaid, and other federal programs by limiting the use and authority of subregulatory guidance. Since subregulatory guidance is essential for communicating federal policies to states and other stakeholders, the AAFP believes this rule will hamper the Department's ability to administer vital health care programs and create policies to further our shared goal of [improving](#) health care coverage and access.

Thank you for your attention to these important issues. The AAFP looks forward to partnering with you to improve health care coverage and affordability for all Americans. We would welcome the opportunity to meet with members of your administration to discuss our recommendations and how we can collaborate. For more information please contact David Tully, Director of Government Relations at dtully@aafp.org.

Sincerely,



Gary L. LeRoy, MD, FAAFP
Board Chair

ⁱ U.S. Census Bureau. Income, Poverty, and Health Insurance: 2018. September 2019. Available at: <https://www.census.gov/content/dam/Census/newsroom/press-kits/2019/iphi/presentation-iphi-overview.pdf>

ⁱⁱ Alker J and Corcoran A. Children's Uninsured Rate Rises by Largest Annual Jump in More Than a Decade. Georgetown Center for Children and Families. October 2020. Available at: https://ccf.georgetown.edu/wp-content/uploads/2020/10/ACS-Uninsured-Kids-2020_10-06-edit-3.pdf

ⁱⁱⁱ Gangopadhyaya A, Karpman M, Aarons J. As the COVID-19 recession extended into the summer of 2020, more than 3 million adults lost employer-sponsored health insurance coverage and 2 million became uninsured.

Urban Institute. September 2020. Available at: <https://www.urban.org/research/publication/covid-19-recession-extended-summer-2020-more-3-million-adults-lost-employer-sponsored-health-insurance-coverage-and-2-million-became-uninsured>

^{iv} Kamal R, Cox C, Fehr R, Ramirez M, Horstman K, Levitt L. How Repeal of the Individual Mandate and Expansion of Loosely Regulation Plans are Affecting 2019 Premiums. Kaiser Family Foundation. October 2018. Available at: <https://www.kff.org/health-costs/issue-brief/how-repeal-of-the-individual-mandate-and-expansion-of-loosely-regulated-plans-are-affecting-2019-premiums/>

^v Kochanek KD, Murphy SL, Xu JQ, Arias E. Mortality in the United States, 2016. NCHS Data Brief, no 293. Hyattsville, MD: National Center for Health Statistics. 2017

^{vi} <https://www.commonwealthfund.org/publications/issue-briefs/2020/jan/us-health-care-global-perspective-2019>

^{vii} <https://www.kff.org/private-insurance/issue-brief/data-note-further-reductions-in-navigator-funding-for-federal-marketplace-states/>

^{viii} Ibid.

^{ix} Sommers BD, Chen L, Blendon RJ, Orav J, Epstein AM. Medicaid Work Requirements in Arkansas: Two-Year Impacts On Coverage, Employment, and Affordability of Care. Health Affairs. September 2020. Available at: <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2020.00538>

^x <https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/52859-medicaid.pdf>

^{xi} <https://www.kff.org/private-insurance/issue-brief/data-note-further-reductions-in-navigator-funding-for-federal-marketplace-states/>