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March 2, 2020

BY ELECTRONIC DELIVERY

Centers for Medicare and Medicaid Services,
Department of Health and Human Services
Attention: CMS-9916-P
P.O. Box 8016
Baltimore, MD 21244-8016

Re: HHS Notice of Benefit and Payment Parameters for 2021

Dear Administrator Verma:

The staff of Connect for Health Colorado, the state-based health insurance exchange (SBE) for Colorado, greatly appreciates the opportunity provided by the Centers for Medicare and Medicaid Services (CMS) to comment on the proposed “HHS Notice of Benefit and Payment Parameters for 2021.” The proposed regulations that would have a particular impact on the Colorado Marketplace are listed below.

Connect for Health Colorado would like to acknowledge that the comment period for such a complex and consequential rule making should be set at a minimum of 60 days. This ensures all impacted parties are provided the requisite time to provide thoughtful and thorough comment.

A. Requirements for the Group Health Insurance Market: Excepted Benefit Health Reimbursement Arrangements Offered by Non-Federal Governmental Plan Sponsors (45 CFR § 146.145)

Connect for Health Colorado supports the clarification of notice requirements around Excepted Benefit Health Reimbursement Arrangements. We are concerned that the complexity surrounding these types of arrangements may result in confusion or misuse by consumers. We believe that this improved noticing will reduce confusion for both employers and consumers, and promote informed use of these benefits by recipients. As these arrangements are relatively new for both employers

and consumers, Connect for Health Colorado supports these improvements and recommends that notices be required on at least an annual basis, and not limited to changes in terms or available dollar amounts.

B. Employer Sponsored Plan Verification (45 CFR § 155.320(d))

The staff of Connect for Health Colorado supports evidence-based assessments of program integrity and focused efforts to improve eligibility where there exists real risk of errors. We appreciate CMS' focus on determining the most efficient means of obtaining employer sponsored plan verification.

C. Automatic Re-Enrollment (45 CFR § 155.330)

In addition to our comments below, Connect for Health Colorado would like to reference the joint letter that we have signed with Oregon, California, Rhode Island, Washington State, Pennsylvania, and Vermont which voices additional concerns regarding the Automatic Re-Enrollment policies and processes proposed in the 2021 Notice of Benefit and Payment Parameters.

Connect for Health Colorado is deeply concerned about potential changes in Exchange ability to automatically re-enroll consumers in accordance with existing law with the stated intention of improving customer reporting of individual changes in circumstances, more active engagement in plan selection, or improved accuracy in eligibility determinations. While these changes appear constructive, they are unsubstantiated by data on customer behavior in Colorado, will likely cause adverse impacts to vulnerable customers, and are unduly burdensome and costly for both Exchanges and Carriers. We urge the Department not to move forward with these changes.

Connect for Health Colorado has spearheaded several projects to encourage and increase individual reporting throughout the benefit year and during the annual Open Enrollment Period. These activities include noticing, prompting customers to report changes upon login, and a variety of marketing and outreach campaigns and tactics throughout the benefit year. We also feature reminder language on the importance of timely reporting on our website throughout the year; and reminds consumers, our assistance network, and our broker partners regularly via e-mail and social media campaigns.

As a result of these widespread efforts and the ongoing engagement of our brokers and assistance network, the vast majority of Colorado consumers report changes and seek updated eligibility determinations. This occurs both during the benefit year and during the Open Enrollment Period. Of our customers who automatically re-enrolled in a plan with \$0 net premium in in 2020, **we found that 98.1% sought an updated eligibility determination during the Open Enrollment Period.** Many of these customers engaged in active shopping by either selecting a new plan or reviewing and affirming the available automatic enrollment plan. As previously explained, the need for increased outreach or technical complexity to systems to encourage updated eligibility is not substantiated by data on consumer behavior.

Moreover, these changes are likely to result in excessive costs for technical system changes and increased marketing and outreach campaigns, with no evidence that these changes would improve the already high rate of updated eligibility determinations. We estimate that technical system updates would cost Connect for Health Colorado roughly \$1.5 million. Additional outreach and marketing campaigns to ensure retention of these venerable customers would cost \$2.1 million in increased funding for enrollment partners, paid media campaigns, and direct consumer outreach.

Additionally, State-Based Exchanges and Departments of Insurance require detailed information on the proposed changes in order to assess how a proposal would interact with existing federal and state law on guaranteed renewability, and to be able to plan additional development activities. Any changes to this process, including requiring APTCs to be reduced by a formula or fixed dollar amount, would result in substantial strain on Exchange infrastructure, customer service resources, as well as brokers and navigator partner organizations. Even minor changes to this process would severely impede our ability to complete necessary enrollment activities for all consumers within the Open Enrollment Period. Moreover, there is substantial risk of adverse impacts to vulnerable customers and unnecessary instability in the risk pool and market.

We urge the Administration not to move forward with this proposed change in any form. However, should the Administration decide to move forward with aspects of this change, we would note that reduction of APTC by a fixed dollar amount as opposed to a formula would be less technically burdensome to implement. We also believe that state flexibility would allow us to implement changes to best meet state-specific needs.

D. Special Enrollment Periods (45 CFR § 155.420)

Connect for Health Colorado supports the proposed changes regarding alignment and simplification of metal tier limitations for Special Enrollment Periods. The proposed regulation updates should reduce confusion and allow for easier transitions for consumers experiencing a loss of their Cost-Sharing Reductions.

Connect for Health Colorado supports the proposed rule change which allows for more generous effective dates for select Special Enrollment Periods and retains flexibility for State-Based Exchanges to continue using effective dates which work best for their markets. The proposal would implement the effective dates for Special Enrollment Periods on the Federally-Facilitated Exchange on the first day of the month following plan selection. This proposal will reduce gaps in coverage for individuals and families experiencing Qualified Life Change Events. The proposal also seeks to retain flexibility for State-Based Exchanges, which Connect for Health Colorado also supports.

Connect for Health Colorado supports the alignment of retroactive coverage rules. CMS proposes that consumers receiving a retroactive coverage effective date could either pay the entire retroactive premium amount in addition to the first prospective month of coverage (subject to possible reduction by one month), or they could pay the premium amount for the first month of coverage and receive prospective coverage only. This proposal is expected to improve operational efficiency and reduce complexity for both carriers and Exchanges.

Connect for Health Colorado also supports the proposed additional Special Enrollment Period for individuals enrolled in non-calendar-year Qualified Small Employer Health Reimbursement Arrangements (QSEHRA). This proposed Special Enrollment Period offers consumers enrolled in non-calendar-year QSEHRAs options to choose coverage that they would not otherwise be afforded.

E. Required Contribution Percentage (45 CFR § 155.605(d)(2))

Connect for Health Colorado's mission is to increase access, affordability, and choice for individuals, families, and small businesses purchasing their own health insurance in Colorado. The proposed increase to the required contribution percentage is a fundamental change to the affordability of health care. Asking families to contribute a higher percentage of their income towards health care could be detrimental to health care affordability, attempts to reduce the uninsured rate, and efforts to

stabilize the individual market. As this change is directly opposed to our organizational mission of increasing insurance affordability for Coloradans, we are opposed to this increase and urge the Departments to maintain the current required contribution rate.

F. Quality Ratings, Display, and State Customization (45 CFR §§ 155.1400 and 1405)

Connect for Health Colorado commends HHS for seeking comment on the display of quality ratings for SBMs and also supports the goals of empowering consumers through provision of data, minimizing costs and burdens to QHP issuers, and state flexibility for states who operate their own eligibility and enrollment platforms. Connect for Health Colorado currently displays QRS information on its shopping and enrollment platform to assist consumers with their plan selections. QRS information is helpful to consumers when making difficult choices about coverage.

Additionally, Connect for Health respectfully asks HHS to clarify how the local and state quality ratings mentioned in the proposed rule should be incorporated into the greater QRS rating system.

G. Promoting Value-Based Insurance Design (45 CFR § 156)

The Department of Health and Human Services (HHS) proposes to offer Qualified Health Plan (QHP) carriers with options to assist them with the design of value-based insurance plans. These plans would allow consumers to receive high value services at a lower cost. The proposal lays out a “value-based” model QHP which includes consumer cost-sharing levels to drive utilization of high value services and lower utilization of low value services when medically appropriate.

Connect for Health Colorado commends HHS for their focus on driving value-based care solutions. We support the promotion of a consumer-driven health care system which provides consumers with higher quality health care coverage.

Sincerely,
Connect for Health Colorado Staff