



March 7, 2017

Dr. Patrick Conway  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attn: CMS-9929-P-P  
P.O. Box 8016  
Baltimore, MD 21244-8016

### **Society for Public Health Education's (SOPHE) comments on the proposed rule to stabilize the individual and small group market (CMS-9929-P)**

Dear Administrator Conway:

The Society for Public Health Education welcomes the opportunity to comment on the CMS proposed rule regarding market stabilization for the 2018 plan year. Stable markets that offer Americans adequate choice, benefits, and affordability in the health insurance markets are critical to meaningful access to health care for middle class Americans. While the proposed market stabilization tactics serve to provide additional stability for issuers, they risk alienating healthy consumers and may serve to disincentivize their enrollment further destabilizing the marketplace due to inadequate risk pools.

The Society for Public Health Education (SOPHE) is a 501 (c)(3) professional organization founded in 1950 to provide global leadership to the profession of health education and health promotion. SOPHE contributes to the health of all people and the elimination of health disparities through advances in health education theory and research; excellence in professional preparation and practice; and advocacy for public policies conducive to health. SOPHE is the only independent professional organization devoted exclusively to health education and health promotion. Members include behavioral scientists, faculty, practitioners, and students engaged in disease prevention and health promotion in both the public and private sectors. Collectively, SOPHE's national and chapter members work in universities, medical/health care settings, businesses, voluntary health agencies, international organizations, and all branches of federal/state/local government.

### **Comments on Proposed Rule**

The Centers for Medicare & Medicaid Services (CMS) propose to shorten the length of the annual open enrollment period from November 1, 2017-January 31, 2018 to November 1 2017-December 15, 2015. The cuts the open enrollment period approximately in half. While CMS proposes that this will decrease the number of people who sign up for health insurance after discovering they are sick in late December or early January, shortening the length of the open enrollment period does not adequately address the problem of incentivizing a healthy risk pool and may in fact contribute to the risk pool becoming less healthy. There is nothing in this proposed change that would address people who discover they are sick during the shorter open

enrollment period from signing up for that coverage year and if someone neglected to sign up during the shorter enrollment period and still found that they were sick in late December or January, they would simply need to forego care until the next open enrollment period but by then their illness may have continued to progress, may have spread, or the burden of their illness may have increased. This would lead to a sicker person becoming enrolled in the marketplace after not receiving necessary care for the previous year. Should CMS proceed with the shorter open enrollment period aggressive marketing will be necessary so that consumers who have previously enrolled in late December or January will understand that they will need to make their selection and enroll earlier this year. Additionally, increased IT infrastructure and capacity will be needed at the federal and state levels to accommodate the increased number of daily visits since it stands to reason that the same number of enrollees will need to be accommodated in approximately half the time of previous open enrollment periods. The same logic applies for the proposed increased pre-enrollment verification for eligibility in a special enrollment period.

CMS also proposes to allow insurers to apply premiums paid to debt accumulated when a previous enrollee discontinued coverage via nonpayment of premiums and then reenrolls with the same insurer within 12 months. While we understand the intent of this proposed rule is to disincentivize enrollees from not paying their premiums for the full coverage year, this proposed rule may also encourage instability in the market by incentivizing enrollees to switch from carrier to carrier to avoid paying their debt and may encourage potential enrollees to wait to seek care until the next open enrollment period if they cannot afford to pay past due balances. This may serve to delay care until the next enrollment period and the enrollee's condition may be deteriorating during this time which would lead to more expensive treatment. Should CMS proceed with the proposed rule as written, sufficient notice must be supplied to an issuer's current enrollees as well as any new enrollees in the upcoming open enrollment periods so that enrollees understand the potential consequences of nonpayment for the entire coverage year and/or any lapse in coverage. Sufficient notice of potential consequences will discourage enrollees from failing to pay their premiums.

CMS also proposes to limit the use of Special Enrollment Periods and not allow enrollees to change metal level plans during the coverage year. SOPHE understands the rationale for this but cautions that there are circumstances in which an enrollee would need to switch metal level plans after enrolling during a special enrollment period for example a change in employment with additional or loss of income available to pay premiums. This is particularly important should the proposed rule allow for premiums to go toward debt if an enrollee has a lapse of coverage. Moving to a lower metal plan may be the only way for some enrollees to maintain continuous coverage should they experience an income shock. Another example occurs when enrolling a new spouse or child with complex health care needs. Similar concerns exist when requiring a spouse to have had coverage in the prior 60 days. If a new spouse cannot demonstrate having had adequate coverage in the prior 60 days then they would have to wait until the next open enrollment period and may become sicker during that time if they do have a medical condition requiring treatment or they may not elect to enroll during the next open enrollment period if they become used to the risk involved with self insuring. This incentivizes them to wait until they are sick to enroll in a plan.

Thank you for consideration of our comments. The Affordable Care Act and its associated markets have provided quality, affordable health care to millions of Americans since their inception in 2014. SOPHE looks forward to continuing to work with CMS on ensuring that the markets remain viable for middle class Americans to receive the health care they need. Please

contact Dr. Cicily Hampton at ([hampton@sophe.org](mailto:hampton@sophe.org)) or 202-408-9804 with any additional questions.

Sincerely,

A handwritten signature in black ink that reads "Elaine Auld". The signature is written in a cursive, flowing style.

Elaine Auld, MPH, MCHES  
Chief Executive Officer