August 22, 2023

The Honorable Xavier Becerra  
Secretary  
Department of Health and Human Services  
Hubert H. Humphrey Building, Room 509F  
200 Independence Avenue SW  
Washington, DC 20201

Submitted electronically to www.regulations.gov

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

Dear Secretary Becerra:

The American Nurses Association (ANA) is pleased to comment on the Centers for Medicare & Medicaid Services (CMS), along with the Department of the Treasury and the Department of Labor (the agencies), proposed rule that would amend federal definitions for the contract periods and coverage length of short-term, limited duration insurance (STLDI) plans. ANA supports the agencies’ proposals that would better delineate STLDI from comprehensive coverage plans that are subject to protections outlined in the Affordable Care Act (ACA). ANA strongly believes that everyone must have access to affordable, comprehensive health insurance and strongly urges the agencies to finalize the proposals in this rulemaking that would once again limit STDLI plans and require clearer notices for consumers.

This proposed rule seeks to revert 2018 rulemaking that aimed to expand the sale and use of STLDI plans by extending the maximum duration of such plans from three months to twelve months and modified the disclaimer required under current regulations for these types of health insurance plans.1 ANA expressed great concern during the public comment period that the proposed rule, combined with the repeal of the individual mandate in December 2017, would result in more uninsured people and further limit access to affordable, comprehensive health insurance coverage.2

Since the 2018 rule was finalized, analysis and data about the expansion of STLDI plans have validated ANA’s concerns. Claims data showed that these plans spent very little on patient care in comparison to more comprehensive coverage plans—with aggressive strategies to avoid spending more.3 In addition, reports have shown that marketing tactics to beneficiaries are often misleading, directing them to less

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comprehensive plans that lack the consumer protections outlined in the ACA.⁴ Many states recognized
the risks associated with these plans and instituted their own rules to restrict or limit the duration and
availability of STLDI plans after the federal regulations were promulgated.⁵

ANA and the nurses we represent strongly believe that every American citizen and resident has the right
to access affordable, comprehensive health care coverage. Short-term, limited duration health plans by
definition are not required to meet the ACA requirements with respect to essential health benefits, pre-
existing conditions protections, and lifetime coverage limits. These protections were included in the ACA
so that it would not be more difficult for individuals with chronic and complex health conditions to
purchase coverage. For these reasons, ANA supports the proposed rule that would once again restrict
contract lengths and limit the duration back to three months for STDLI plans. We applaud the
Administration for recognizing the need to make this change through this rulemaking process. Further,
the rule also proposes to revise current notice requirements to provide consumers with clearer
information about the types of health insurance plans available to them. The agencies are on firm policy
grounds to make this change. As such, ANA urges the agencies to finalize the above-captioned rule to
better protect consumers and ensure everyone has access to affordable, comprehensive health care
coverage.

ANA is the premier organization representing the interests of the nation’s over 5 million registered
nurses (RNs), through its state and constituent member associations, organizational affiliates, and
individual members. ANA advances the nursing profession by fostering high standards of nursing
practice, promoting a safe and ethical work environment, bolstering the health and wellness of nurses,
and advocating on health care issues that affect nurses and the public. ANA members also include the
four APRN roles: nurse practitioners (NPs), clinical nurse specialists (CNSs), certified nurse-midwives
(CNMs), and certified registered nurse anesthetists (CRNAs). RNs serve in multiple direct care, care
coordination, and administration leadership roles, across the full spectrum of health care settings. RNs
provide and coordinate patient care, educate patients and the public about various health conditions
including essential self-care and provide advice and emotional support to patients and their family
members.

ANA appreciates the opportunity to submit these comments and looks forward to continued
engagement with HHS. Please contact Tim Nanof, Vice President, Policy and Government Affairs, at
(301) 628-5166 or Tim.Nanof@ana.org, with any questions.

Sincerely,

Debbie Hatmaker, PhD, RN, FAAN
Chief Nursing Officer / EVP

cc: Jennifer Mensik Kennedy, PhD, RN, NEA-BC, FAAN, ANA President
Lloressa Cole, DNP, MBA, RN, NEA-BC, FAAN, ANA Chief Executive Officer

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⁴ Center on Budget and Policy Priorities. Commentary: Growing Evidence Shows Need for Stronger Rules for Short-
shows-need-for-stronger-rules-for-short-term-health.

⁵ Ibid.