

December 21, 2018

Administrator Seema Verma  
Centers for Medicare & Medicaid Services (CMS)  
Department of Health and Human Services  
Attention: CMS-9936-NC  
P.O. Box 8010  
Baltimore, MD 21244-1850

**RE: State Relief and Empowerment Waivers (83 FR 53575)**

Dear Administrator Verma:

The American Association of Nurse Practitioners (AANP), representing more than 248,000 nurse practitioners (NPs) in the United States, appreciates the opportunity to provide comment on the Department of Health and Human Services and the Department of the Treasury (collectively, the Departments) joint guidance for State Relief and Empowerment Waivers (83 FR 53575).

NPs are advanced practice registered nurses (APRNs) who are prepared at the masters or doctoral level to provide primary, acute, chronic and specialty care to patients of all ages and walks of life. Daily practice includes: assessment; ordering, performing, supervising and interpreting diagnostic and laboratory tests; making diagnoses; initiating and managing treatment including prescribing medication and non-pharmacologic treatments; coordinating care; counseling; and educating patients and their families and communities. NPs practice in nearly every health care setting including clinics, hospitals, Veterans Affairs and Indian Health Care facilities, emergency rooms, urgent care sites, private physician or NP practices (both managed and owned by NPs), nursing homes, schools, colleges, retail clinics, public health departments, nurse managed clinics, homeless clinics, and home health. NPs hold prescriptive authority in all 50 states and the District of Columbia. It is important to note that 86.6% of NPs are certified in primary care, the majority of whom see Medicare and Medicaid patients. NPs complete more than one billion patient visits annually.

The Departments seek comment on new guidance for States on applications for waivers under section 1332 of the Patient Protection and Affordable Care Act (PPACA). While we share the desire of the Departments to ensure access to affordable health insurance, we are concerned that waivers approved under this new guidance will have unintended consequences, particularly for patients suffering from pre-existing conditions.

Our concerns are related to whether waivers approved under this new guidance will meaningfully meet the statutory “guardrails” of comprehensiveness and affordability of coverage. Ensuring access to medically necessary services is an important component of a stable healthcare system. Nurse practitioners are committed to treating patients in all walks of life and across all settings. Lack of meaningful healthcare coverage is a significant impediment to providing patients with the care that they require. Under this new guidance, States would be authorized to provide financial assistance for non-qualified health plans and make catastrophic health plans available to a broader group of individuals.<sup>1</sup> While this may lead to more persons covered under these plans, the limited benefits as well as the projected

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<sup>1</sup> Section 1332 State Relief and Empowerment Waiver Concepts, Discussion Paper, November 29, 2018, at page 13.

increased cost-sharing may leave individuals who have unanticipated illnesses or accidents without adequate coverage. Additionally, increasing the number of enrollees in more limited insurance plans will drive up premiums on the comprehensive coverage required by patients with pre-existing conditions.

Under this guidance financial assistance would be allowed for short-term, limited duration insurance (STLDI) plans.<sup>2</sup> When CMS went through rulemaking on STLDI plans earlier this year, CMS acknowledged that individuals likely to purchase STLDI plans would be younger and healthier which would weaken States' individual market single risk pools.<sup>3</sup> Thus, while this guidance may result in a greater number of plan options, many of those options would be insufficient for patients with pre-existing conditions. In addition, more comprehensive plans could see premiums increase.

Historically, patients with pre-existing conditions have faced higher premiums or exclusion from the healthcare marketplace because there were no significant safeguards to prevent increased premiums or marketplace exclusion. The current safeguards are undermined in this new guidance. Nurse practitioners provide extensive treatment to patients with pre-existing conditions and are acutely aware of the negative impact that lack of meaningful coverage can have on these patients, their families and the community. It is imperative that strong protections are in place to ensure that patients with pre-existing conditions can access affordable, comprehensive health insurance. We request that the Departments continue to require that 1332 waivers meet the statutory requirements on comparability and affordability of coverage.

We encourage the Administration to use the 1332 waiver process to increase access to care and remove barriers for NPs and their patients. For example, 1332 waivers can be used in conjunction with Medicaid 1115 waivers that remove barriers, such as requirements for physician certification of home health care in a State's Medicaid program. This would improve continuity of care as patients move between the Medicaid and individual markets, ensuring that patients do not experience delays in receiving necessary treatment. There are additional costly barriers such as physician certification of a patient's need for diabetic shoes or hospice care and requirements that physicians order cardiac and pulmonary rehabilitation that can also be incorporated into these waivers. We look forward to continuing to work with the Administration on initiatives that lower healthcare costs while also maintaining robust protections for patients with pre-existing conditions and other vulnerable populations.

We thank you for the opportunity to comment on this guidance. We look forward to discussing these issues with you, and should you have comments or questions, please direct them to MaryAnne Sapio, V.P. Federal Government Affairs, [msapio@aanp.org](mailto:msapio@aanp.org), 703-740-2529.

Sincerely,

David Hebert  
Chief Executive Officer

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<sup>2</sup> *Ibid.*

<sup>3</sup> 83 FR 7437, 7443.