



February 13, 2023

The Honorable Chiquita Brooks-LaSure
Administrator, Centers for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

RE: CMS-9899-P

Dear Administrator Brooks-LaSure:

The National Association of Insurance and Financial Advisors (NAIFA) appreciates the opportunity to submit comments for the proposed rule titled "2024 Notice of Benefits and Payment Parameters," published in the Federal Register on December 21, 2022.

Founded in 1890 as The National Association of Life Underwriters ("NALU"), NAIFA is the oldest, largest, and most prestigious association representing the interests of insurance professionals from every Congressional district in the United States. Our mission – to advocate for a positive legislative and regulatory environment, enhance business and professional skills, and promote the ethical conduct of its members – is the reason NAIFA has consistently and resoundingly stood up for agents and called upon members to grow their knowledge while following the highest ethical standards in the industry.

NAIFA members play an integral role in helping millions of Americans purchase and manage their health insurance.

Limits to Standardized Plan Options or Meaningful-Difference Changes

To reduce consumer confusion, the proposed rule would limit the number of non-standardized plans that issuers can offer through the federally facilitated exchange or state-based exchanges that utilize the federal marketplace platform to two per product, network type and metal level, by service area. Based on the proposed rule's own estimates, this change would cause approximately 2.72 million current enrollees to have their plans discontinued in 2024, requiring issuers to place all these individuals in new coverage options.

The rule contemplates reintroducing the "meaningful-difference standard" established several years ago for issuers. In order to comply with that standard, issuers' plans designs had to be sufficiently different so exchange shoppers could easily distinguish between them. A more stringent standard, however, is proposed in the proposed rule, which groups plans by issuer ID,



county, metal level, product network type and deductible integration type. Based on deductible amounts of at least \$1,000, plans within each group are evaluated for meaningful differences.

Consumers without adequate guidance can feel overwhelmed when faced with dozens of seemingly similar plan options when evaluating coverage options through NAIFA members. As well as valuing innovation and price controls, our membership also believes that consumers deserve a wide range of plan choices in order to meet their coverage needs.

Consumers do not have the ability to compare plan options based on their most important coverage values, so they cannot easily sort through and compare them. Prior to enrolling, many state-based exchanges ask prospective enrollees to complete a coverage survey, which filters and sorts the plan results made immediately available to the prospective enrollee. NAIFA recommend the federal exchange utilize a similar approach.

Establishing a Timeliness Standard for Notices of Payment Delinquency

If a plan member defaults on premiums, current rules require issuers to send delinquency reminders in order to provide members with a reasonable notice period of unpaid premiums and to avoid cancellation of coverage. It is known that some issuers are not sending timely reminders and as such, NAIFA believes that consumers should have at least 30 days to correct unpaid premium balances before cancellation takes place.

Allowing Door-to-Door Assistance

The proposed rule seeks to repeal current federal rules that prohibit enrollment assisters from going door to door or using unsolicited means to provide enrollment assistance to consumers. NAIFA opposes an elimination of the prohibition on door-to-door solicitation.

The proposed repeal would likely increase the chances of exchange participants falling victim to fraud or feeling pressured to make quick and inappropriate registration decisions. Enabling door-to-door exchange coverage demeans the product and financial decisions involved. When choosing alternative plan options and claiming premium tax credits, consumers must make important financial and health decisions that affect their personal and financial well-being for at least a year. NAIFA members and similar professionals are best suited to assist in this task.

Rules for Brokers and Agents

The proposed rule would place new requirements on agents, brokers, and web-brokers to document that their clients have reviewed and confirmed their eligibility information before applying for exchange-based insurance. CMS has provided brokers and agents with a draft model form for use, and the proposed rule would require them to retain this document for at least 10 years and be able to provide it to HHS upon request. The proposed rule would also require FFM and SBM-FP agents, brokers, and web- brokers to document that they have received consumer consent to assist them in marketing authorization applications.



NAIFA members understand the need to review broker eligibility information and are appreciative that following the publication of the proposed rule, CMS offered a guidance document for brokers to use when documenting client consent and qualifications.

However, NAIFA members firmly believe that requiring brokers to obtain and maintain such permissions does not benefit the consumer. Instead, NAIFA recommends including verification of consumer eligibility and consent to use a broker for assistance in the exchange application process, with the records becoming part of the person's official application and thereby managed by the government-sponsored marketplace. In this way, data will be consistently available, consent approaches will be consistent, and all entities assisting consumers in enrolling in coverage will be able to verify consumer eligibility and consent.

Additionally, NAIFA has concerns that the proposed 10-year retention requirement for such records may exceed state record retention guidelines, which can cause confusion among agents and brokers.

Auto-Enrollment Changes

The proposed regulation would change the rules that the federal exchange market uses to automatically enroll people who don't proactively enroll in their exchange-based health insurance coverage. When completed, this regulation would change the decision-making hierarchy for re-enrollment in two ways. The first would allow exchanges to enroll consumers who are not proactively re-enrolling from a Bronze level plan to a Silver level plan so that the consumer would benefit from cost-sharing reductions, although it means their monthly premiums could be higher. The second change would allow re-enrollment hierarchies to be modified to reflect a preference to retain individuals in provider networks that match their current plan.

NAIFA has concerns about the federal exchange's policy of re-enrolling individuals in exchange-based coverage if they do not proactively enroll themselves. A particular concern is the practice of assigning consumers to new coverage options that they have not specifically selected without first discussing other options with them. NAIFA's members provide the assistance and expertise to allow exchange customers to review their choice of benefits annually with a licensed professional so that consumers have the confidence in making correct choices when registering.

Exchange User Fees

The proposed rule would reduce user fees by 0.25% for issuers participating in the state-sponsored exchange market and state exchanges that use the federal marketplace's technology platform. NAIFA supports this inclusion as it will have a positive impact on both the competitive market and consumer pricing.



Thank you for the opportunity to comment on proposed updates to regulations in these areas. NAIFA appreciates your consideration of the agents and brokers that are vital to ensuring that millions of Americans have access to important health insurance benefits. These professionals are deeply rooted in their communities and are best positioned to understand the needs of consumers.

If you have any questions or require additional information, please contact NAIFA's Director of Government Relations, Michael Hedge, at mhedge@naifa.org.

Sincerely,

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

Bryon Holz, CLU, ChFC, LUTCF, CASL, LACP
President
National Association of Insurance and Financial Advisors