



September 11, 2023

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

RE: CMS–9904–P; Proposed Rule on Short-Term, Limited-Duration Insurance; Independent, Noncoordinated Excepted Benefits Coverage; Level-Funded Plan Arrangements; and Tax Treatment of Certain Accident and Health Insurance

Dear Administrator Brooks-LaSure:

AARP, which advocates for the more than 100 million Americans aged 50 and over, is pleased to submit the following comments on the proposed rule referenced above.

### **Short-Term, Limited-Duration Insurance**

#### **Definition**

AARP strongly supports CMS’ proposal to amend the federal definition of “short-term” insurance to 1) have an initial contract term of no more than 3 months, and 2) considering any renewals or extensions, would establish a maximum permitted duration of no longer than 4 months total.

Short-term, limited-duration health insurance plans are not comprehensive medical coverage and were never intended to be utilized as such. The existing definition used for short-term plans is problematic and the proliferation of these plans in the individual health insurance market can create confusion for consumers and fragment the risk pool, leading to higher premiums for those enrolled in qualified health plans. Most importantly, these plans lack critical consumer protections meant to expand access and make coverage more affordable, such as the Affordable Care Act’s prohibition on denial of coverage for preexisting conditions and the 3:1 age rating limit that prevents enrollees 50-64 from paying more than three times that of the lowest priced premium.

#### **Sales and Marketing Practices**

One of the primary concerns with the proliferation of short-term policies is that they are marketed to those in need of coverage as a low-cost alternative to comprehensive plans despite lacking the core consumer protections required by the ACA. We agree with CMS that additional measures are needed to help consumers better understand the differences in these types of plans.

Limiting the duration and availability of renewal for these plans is an important first step. We would also encourage CMS to consider ways to differentiate short-term plans from comprehensive plans where applicable to prevent consumers from getting confused about the level of coverage they can expect from the plans. For example, a web portal offering both types of plans would be required to clearly disclaim or mark a short-term plan on display screens with a note that these plans are not comprehensive health insurance. We also note that hundreds of thousands of Americans are losing Medicaid coverage due to the expiration of the COVID-19 public health emergency. These people are likely to be in states with few outreach and education resources, making them much more susceptible to selecting a short-term plan when they are used to comprehensive medical coverage.

#### Notice

We support the proposal required for all short-term plans sold to provide a notice in clear language that a short-term plan “is short-term, limited-duration insurance. This is temporary insurance. It isn’t comprehensive health insurance and is not subject to consumer protections required by the Affordable Care Act.” The additional information on the shortcomings of short-term coverage, as well as information for how to apply for a comprehensive health plan through healthcare.gov, is also appreciated.

To ensure that consumers understand the risk of short-term insurance plans, we also recommend that this notice be required for various forums and platforms where short-term plans may be sold. This could include web-brokers, exchange front pages, and various state-based consumer resources such as Departments of Insurance and health ombudsmen.

We applaud the proposed rule and appreciate the opportunity to share our comments. If you have any questions, please do not hesitate to contact me or have your staff contact Brendan Rose on our Government Affairs staff at 202-434-3770 or [brose@aarpp.org](mailto:brose@aarpp.org).

Sincerely,

A handwritten signature in black ink, appearing to read "David Certner", with a stylized flourish extending to the right.

David Certner  
Legislative Counsel and Legislative Policy Director