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January 14, 2020

Samara Lorenz, Director, Oversight Group
Centers for Medicare & Medicaid Services (CMS)
Center for Consumer Information & Insurance Oversight (CCIIO)
200 Independence Avenue SW
Washington, DC 20201

Re: Wellness Program Demonstration Project in the Individual Market

Dear Director Lorenz,

On behalf of the Individual and Small Group Markets Committee (“the Committee”) of the American Academy of Actuaries,¹ I am providing comments on the September 30, 2019 bulletin, *Opportunity for States to Participate in a Wellness Program Demonstration Project to Implement Health-Contingent Wellness Programs in the Individual Market*.²

Evidence finds that many wellness programs do not achieve cost savings or improve health outcomes³

In the absence of cost savings, premiums would need to increase to cover the cost of the wellness rewards.

Wellness programs should not be used to exclude less healthy individuals

If individuals with medical conditions are less able to qualify for wellness program rewards (or more likely to face program penalties), they will be unfairly disadvantaged. This could serve as a disincentive for less healthy individuals to enroll in the health plan. We encourage CCIIO to review applications carefully to ensure less healthy individuals are not discriminated against or disadvantaged by a wellness program. Appropriate alternative standards could be required to ensure that affected enrollees are not subject to discriminatory standards.

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

² CCIIO, *Opportunity for States to Participate in a Wellness Program Demonstration Project to Implement Health-Contingent Wellness Programs in the Individual Market*, September 30, 2019.

³ See for example: Adrianna McIntyre, Nicholas Bagley, Austin Frakt, and Aaron Carroll, “The Dubious Empirical and Legal Foundations of Wellness Programs,” *Health Matrix* Volume 27, Issue 1 (2017) Available at: <https://scholarlycommons.law.case.edu/healthmatrix/vol27/iss1/4>; Damon Jones, David Molitor, Julian Reif, “What Do Workplace Wellness Programs Do? Evidence from the Illinois Workplace Wellness Study,” *The Quarterly Journal of Economics*, Volume 134, Issue 4 (2019). Available at: <https://doi.org/10.1093/qje/qjz023>.

Clarification is needed regarding actuarial value requirements and benchmark premium calculations

Our understanding is that under a reward-based wellness program (e.g., lower cost sharing and/or lower premiums for enrollees meeting program requirements), actuarial value would be calculated based on the plan’s benefit design before any reward-related cost sharing reductions and the benchmark premium used to determine premium subsidies would be based on the second lowest cost silver premium before any reward-related premium reductions. Wellness programs could also be penalty-based (e.g., higher cost sharing and/or premium surcharges) for enrollees not meeting program requirements. In this case, the actuarial value would be calculated based on the plan with the higher cost sharing and the benchmark premium would be based on the second lowest cost silver premium including the penalty. We respectfully request a confirmation from CCIIO of our understanding regarding these calculations.

Wellness program rewards or penalties could increase advanced premium tax credits (APTCs)

In order to participate in the wellness demonstration project, states must demonstrate that the program would not result in an increase in APTCs. As noted above, the available evidence has not found cost savings due to the use of wellness programs. In the absence of savings, premiums would need to increase to cover the rewards, which could lead to increased APTCs. A wellness program with a premium penalty structure could increase APTCs even further, assuming that the benchmark premium increases to reflect the premium surcharge. In this case, APTCs could increase not only for those not meeting the wellness program requirements but also for those who do. In order to comply with the requirement of no increase in aggregate APTCs, the wellness program may need to reduce claim costs in an amount sufficient to cover the rewards. This requirement may make it difficult to design compliant wellness programs.

Wellness program rewards and penalties could affect subsidized and unsubsidized enrollees differently, depending on the program’s design

Under a wellness program with premium differentials between those meeting and not meeting program requirements, some subsidized enrollees may be fully or partially shielded from the impact of the wellness program. Unsubsidized enrollees, however, would not be protected. A wellness program that changes cost-sharing requirements based on whether the enrollee meets the wellness program requirements could affect enrollees at all income levels, but there is less flexibility to design cost-sharing differentials for low income members with high actuarial value cost-sharing reduction plans.

We would welcome the opportunity to speak with you in more detail and answer any questions you have regarding these comments. Please contact Devin Boerm, Deputy Director of Public Policy, at 202-785-7850 or boerm@actuary.org to facilitate further discussions.

Sincerely,

Barbara Klever, MAAA, FSA
Chairperson, Individual & Small Group Markets Committee
American Academy of Actuaries