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AMERICAN ACADEMY *of* ACTUARIES

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February 12, 2021

Honorable Janet Yellen  
Secretary of the Treasury  
1500 Pennsylvania Ave., NW  
Washington, DC 20500

Norris Cochran  
Acting Secretary of Health & Human Services  
200 Independence Ave., SW  
Washington, DC 20201

Al Stewart  
Acting Secretary of Labor  
200 Constitution Ave., NW  
Washington, DC 20210

Re: Review of Agency Actions Related to the Affordable Care Act and Medicaid, Executive Order 14009

Dear Secretary Yellen and Acting Secretaries Cochran and Stewart:

On behalf of the Health Practice Council of the American Academy of Actuaries,<sup>1</sup> I would like to offer input as the Departments of the Treasury, Labor, and Health & Human Services engage in a review of “existing regulations, orders, guidance documents, policy and other similar agency actions” pertaining to the Affordable Care Act (ACA) and Medicaid pursuant to President Biden’s Executive Order 14009 issued on January 28, 2021. The Executive Order directs you and relevant the agency heads of your departments to examine policies or practices that may negatively affect pre-existing condition protections, coverage availability and affordability, and insurance markets and to consider suspensions, revision, rescission, or additional actions.

Over the past several years, the Health Practice Council has submitted numerous letters to the agencies regarding various proposed rules. These comments may be useful as you review rules and guidance. For your convenience, included below are links to our previous comment letters.

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<sup>1</sup> 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.

**Comments to the Department of Health & Human Services (HHS) Centers for Medicare and Medicaid Services (CMS) on the Proposed Notice of Benefit and Payment Parameters for 2022** (December 30, 2020)

[https://www.actuary.org/sites/default/files/2020-12/American\\_Academy\\_of\\_Actuaries\\_NBPP\\_2022\\_Comments.pdf](https://www.actuary.org/sites/default/files/2020-12/American_Academy_of_Actuaries_NBPP_2022_Comments.pdf)

**Comments to CMS on the Affordable Care Act Actuarial Value Calculator**

(November 9, 2020)

[https://www.actuary.org/sites/default/files/2020-11/MEDMARKETS\\_AV\\_Calculator\\_Comments.pdf](https://www.actuary.org/sites/default/files/2020-11/MEDMARKETS_AV_Calculator_Comments.pdf)

**Comments to CMS on the Proposed Notice of Benefit and Payment Parameters for 2021**

(February 28, 2020)

<https://www.actuary.org/sites/default/files/2020-03/American%20Academy%20of%20Actuaries%20COMMENTS%20NBPP.pdf>

**Comments to CMS on the Proposed Medicaid Fiscal Accountability Regulation**

(January 31, 2020)

<https://www.actuary.org/sites/default/files/2020-01/Medicaid-Fiscal-Accountability-Regulation-Proposed-Rule-comments-20200127-final.pdf>

**Comments to CMS on the Wellness Program Demonstration Project in the Individual Market** (January 14, 2020)

<https://www.actuary.org/sites/default/files/2020-01/Wellness%20Program%20Demo%20Project%20Comments%2001142020.pdf>

**Comments to CMS on the Proposed Notice of Benefit and Payment Parameters for 2020**

(February 19, 2019)

[https://www.actuary.org/sites/default/files/files/publications/2020\\_NBPP\\_Comments\\_021918.pdf](https://www.actuary.org/sites/default/files/files/publications/2020_NBPP_Comments_021918.pdf)

**Comments to CMS on Proposed Rule on Medicaid and CHIP Managed Care**

(January 14, 2019)

[https://www.actuary.org/sites/default/files/files/publications/ProposedMedicaidCHIPRuleComments\\_01.15.2019.pdf](https://www.actuary.org/sites/default/files/files/publications/ProposedMedicaidCHIPRuleComments_01.15.2019.pdf)

**Comments to CMS on Departments of the Treasury and HHS Guidance Regarding State Relief and Empowerment Waivers Under Section 1332 of the ACA** (December 18, 2018)

[https://www.actuary.org/sites/default/files/files/publications/1332\\_Guidance\\_comments\\_12\\_18\\_18.pdf](https://www.actuary.org/sites/default/files/files/publications/1332_Guidance_comments_12_18_18.pdf)

**Comments to the IRS on Jointly Proposed Rules by Treasury, HHS and the Department of Labor (DOL) on Health Reimbursement Arrangements and Other Account-Based Group Health Plans** (December 13, 2018)

[https://www.actuary.org/sites/default/files/files/publications/HRA\\_comments\\_12\\_13\\_2018.pdf](https://www.actuary.org/sites/default/files/files/publications/HRA_comments_12_13_2018.pdf)

**Comments to CMS on the Treasury, HHS, and DOL Proposed Rules on Short-Term Limited Duration Insurance**

(April 6, 2018)

[https://www.actuary.org/sites/default/files/files/publications/STLD\\_Comment%20Letter\\_040618.pdf](https://www.actuary.org/sites/default/files/files/publications/STLD_Comment%20Letter_040618.pdf)

**Comments to the Department of Labor Employee Benefits Security Administration (EBSA) on the Potential Effects of Broadened Association Health Plans (AHP) Eligibility** (March 5, 2018)

[https://www.actuary.org/sites/default/files/files/publications/AHP\\_Comment%20Letter\\_030518.pdf](https://www.actuary.org/sites/default/files/files/publications/AHP_Comment%20Letter_030518.pdf)

**Comments to the EBSA on Considerations Related to Modeling the Potential Impact of Broadened AHP Eligibility** (February 9, 2018)

[https://www.actuary.org/sites/default/files/files/publications/AHP\\_modeling\\_considerations\\_02092018.pdf](https://www.actuary.org/sites/default/files/files/publications/AHP_modeling_considerations_02092018.pdf)

**Comments to CMS on the Proposed Notice of Benefit and Payment Parameters for 2019** (November 27, 2017)

[https://www.actuary.org/sites/default/files/files/publications/Acad\\_cmts\\_2019\\_NBPP\\_112717.pdf](https://www.actuary.org/sites/default/files/files/publications/Acad_cmts_2019_NBPP_112717.pdf)

**Comments to the Departments of Treasury, Labor, and Health and Human Services on Executive Order 13813 to Expand the Availability of Association Health Plans, Short-Term Limited Duration Plans, and Health Reimbursement Arrangements** (November 7, 2017)

[https://www.actuary.org/sites/default/files/files/publications/Executive\\_Order\\_Academy\\_Comments\\_110717.pdf](https://www.actuary.org/sites/default/files/files/publications/Executive_Order_Academy_Comments_110717.pdf)

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As you move forward with your review, we would be happy to discuss any of these issues further with you. If you have any questions or would like to discuss further, please contact Matthew Williams, senior health policy analyst, at [williams@actuary.org](mailto:williams@actuary.org).

Sincerely,

Al Schmitz, MAAA, FSA  
Vice President  
Health Practice Council  
American Academy of Actuaries