
OCC Advocacy News

May 2018 Newsletter of the Obesity Care Continuum

Prepared by Christopher Gallagher, OCC Washington Coordinator

OCAN Submits Comments on Short-Term, Limited-Duration Health Plans

On April 23, the Obesity Care Advocacy Network (OCAN) submitted comments in response to the February 21, 2018 proposed regulations that the Trump Administration released regarding short-term, limited-duration health insurance plans.

According to the proposed regulations, the rule would amend the definition of short-term, limited-duration insurance to include those offering a maximum coverage period of less than 12 months and that “this action is being taken to lengthen the maximum period of short-term, limited-duration insurance, which will provide more affordable consumer choice for health coverage.”

OCAN raised concern that expansion of these types of insurance products could have a chilling effect on patient access to care in the individual health insurance market as the target for these plans will be predominantly young and healthy individuals. Proliferation of these short-term health plans will lead to adverse selection and significantly raise the cost of coverage for people affected by obesity or other serious chronic health conditions. Additionally, OCAN warned that these short-term, limited-duration health plans are not subject to the key patient protections encompassed under the Affordable Care Act, such as minimum coverage standards and rules that prohibit medical underwriting, rescissions, pre-existing condition exclusions, and lifetime and annual limits. *See the end of this report for the full text of the April 23rd OCAN comment letter.*

CMS Issues Final Regulations on National Benefit and Payment Parameters

On April 17th, the Trump Administration also released final regulations governing national benefit and payment parameters for 2019 – regulations that the Administration touts will “increase state flexibility, improve

affordability, strengthen program integrity, empower consumers, promote stability, and reduce unnecessary regulatory burdens.”

Of particular note, the final regulations make significant changes to the way states can select an essential health benefit (EHB) benchmark plan for 2020 and annually thereafter. It also grants insurers greater flexibility to substitute benefits across the ten EHB benefit categories, if permitted by the state.

For example, the final rule permits states to change their EHB benchmark plan using one of the following three options:

1. Selecting the EHB-benchmark plan that another state used for the 2017 plan year;
2. Replacing one or more EHB categories of benefits in its EHB benchmark plan used for the 2017 plan year with the same categories of benefits from another state’s EHB-benchmark plan used for the 2017 plan year; or
3. Otherwise selecting a set of benefits that would become the state’s EHB-benchmark plan.

While this greater state flexibility could be seen as a threat to coverage gains made for bariatric surgery and other obesity treatment services in a number of state health exchanges around the country, these changes also mean that obesity advocates will have more opportunities to advocate for full coverage of all treatment avenues across the obesity care continuum.

At the time of this report, OCC member groups were shoring up their respective State Advocacy Representative (STAR) programs to ensure that OCC will have scouts and foot soldiers on the ground in every state to either protect current obesity coverage gains or lead the charge for broader coverage. If you would like to learn more about the STAR program, or be considered to serve as the STAR in your state, please contact OCC Coordinator Chris Gallagher at chris@potomaccurrents.com.

Update on Treat and Reduce Obesity Act.

Cosponsorship of the Treat and Reduce Obesity Act (TROA) continues to grow with 147 House cosponsors and 9 Senate cosponsors. At the time of this report, OCAN leadership is working on a special congressional briefing for key healthcare committee staff to educate policymakers regarding the potential Medicare cost savings associated with implementation of TROA. Additionally, OCAN will be reaching out to the Government Accountability Office (GAO) to engage GAO staff regarding the agency’s pending study on obesity drugs – to

better inform and steer GAO regarding best data sources and obesity experts, which should be accessed to ensure a fair and balanced study.

Roundtable on Obesity Solutions Hosts Workshop on Obesity in the Armed Services

On May 7th, the National Academies Roundtable on Obesity Solutions hosted a special workshop on "Understanding and Overcoming the Challenge of Obesity and Overweight in the Armed Forces." The overall goals of the workshop were to examine the challenges posed by overweight and obesity in the armed forces and explore opportunities to overcome these challenges. The workshop examined these issues as they affect service members (including active duty, guard, and reserve components), veterans, retirees, and their families and communities. Several OCAN leaders participated in the day-long workshop are also active members of the Roundtable on Obesity Solutions. For more information about the speakers and topics that were included in the workshop, please click on the following link:

<http://nationalacademies.org/hmd/~ /media/Files/Activity%20Files/Nutrition/Obesity-Roundtable/2018-MAY-7/Agenda.pdf>

State Employee Coverage of Bariatric Surgery in Wisconsin

On May 16th, the Wisconsin Department of Employee Trust Funds' Group Insurance Board will hold a public meeting to discuss changes in the state employee health insurance program. This Board sets policy and oversees administration of the group health, life insurance and Income Continuation Insurance plans for state employees and retirees and the group health and life insurance plans for local employers who choose to offer them.

At the time of this report, leadership from the ASMBS Wisconsin State Chapter were working with a patient advocate to present public comments during the meeting regarding her denial of coverage for bariatric surgery under the state employee health plan. Please see next month's advocacy newsletter for an update on the outcome of the meeting.

OCAN COMMENTS ON SHORT TERM HEALTH PLANS

Please see pages 4-6 for OCAN's April 23rd comments regarding the proposed regulations governing short-term, limited-duration health insurance plans.

April 23, 2018

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

RE: February 21, 2018 Proposed Regulations regarding Short-Term, Limited-Duration Insurance [CMS–9924–P]

Dear Administrator Verma,

On behalf of the undersigned organizations of the Obesity Care Advocacy Network (OCAN), we would like to express our concern regarding the February 21, 2018 Proposed Regulations on Short-Term, Limited-Duration Insurance [CMS–9924–P], which have been issued by the Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; and Centers for Medicare & Medicaid Services, Department of Health and Human Services (the Tri-Agencies).

OCAN is a diverse group of organizations that have come together with the purpose of changing how we perceive and approach the problem of obesity in this nation. As part of this effort, we strive to: prevent disease progression, improve access to evidence-based treatments for obesity, improve standards of quality care in obesity management, eliminate weight bias, and foster innovation in future obesity treatments. For these reasons, we were concerned by the proposed regulations, which would resurrect the ability of health plans to employ many of the discriminatory coverage practices that were the impetus behind passage of the Affordable Care Act (ACA).

According to the February 2018 proposed regulations, the rule would amend the definition of short-term, limited-duration insurance to include those offering a maximum coverage period of less than 12 months and that “this action is being taken to lengthen the maximum period of short-term, limited-duration insurance, which will provide more affordable consumer choice for health coverage.”

While such a move is being proposed to provide more affordable health plans for young and healthy consumers, we are concerned that expansion of these types of insurance products could have a deterring effect on patient access to care in the individual health insurance market. Proliferation of these short-term health plans will lead to adverse selection and subsequent instability in the reformed non-group market – significantly raising the cost of coverage for people affected by obesity or other serious chronic health conditions. Additionally, short-term,

limited-duration health plans are not subject to the key patient protections encompassed under the ACA, such as minimum coverage standards and rules that prohibit medical underwriting, rescissions, pre-existing condition exclusions, and lifetime and annual limits.

Before enactment of the ACA, short-term, limited-duration insurance was an important means for individuals to obtain health coverage when transitioning from one job to another (and from one group health plan to another) or when faced with other similar situations. However, with guaranteed availability of coverage and special enrollment period requirements in the individual health insurance market under the ACA, individuals can now purchase coverage with all of the above mentioned ACA-mandated patient protections to fill in these gaps in coverage.

Increasingly, many health plans began offering these short-term policies as alternatives to ACA-compliant major medical policies – offsetting key patient protections and the long-term stability of the reformed non-group market. OCAN and other patient and healthcare professional groups were pleased when the Tri-Agencies issued new regulations in October 2016 to limit the length of these plans to less than 3-months to be consistent with the ACA individual mandate exemption for short periods (defined as less than 3 months) of non-coverage. Healthcare advocates also embraced the October 2016 regulations that mandate prominent consumer notices be included on all short term plans that coverage does not constitute qualifying minimal essential health coverage for purposes of satisfying the individual mandate.

We believe that the Tri-Agencies acted appropriately, and in agreement with the majority of public commenters who supported the changes outlined in the October 2016 regulations for short-term, limited-duration health plans. The original intent of these plans was to serve as a short-term coverage bridge – not a viable alternative to meaningful healthcare coverage. For these reasons, we firmly oppose the Tri-Agencies' February 21, 2018 proposed regulations.

Thank you again for your consideration of these comments, should you have any questions, please contact OCAN Washington Office Director Christopher Gallagher at 571-235-6475 or via email at chris@potomaccurrents.com.

Sincerely,

Academy of Nutrition and Dietetics
American Academy of PAs
American Society for Metabolic and Bariatric Surgery
Black Women's Health Imperative
Endocrine Society
Novo Nordisk, Inc.
Obesity Action Coalition

Obesity Medicine Association
SECA
The Obesity Society
The Redstone Center