



## American College Health Association

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September 29, 2011

Donald M. Berwick, MD  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
**Attention: CMS-9989-P**  
P.O. Box 8010  
Baltimore, MD 21244-8010

**Re: Patient Protection and Affordable Care Act  
45 C.F.R. Parts 155 and 156 – Comment  
File Code CMS-9989-P**

Dear Doctor Berwick:

On behalf of the American College Health Association (“ACHA”), I write in response to the Notice of Proposed Rule Making (CMS-9989-P) in which the Centers for Medicare & Medicaid Services (“CMS”) proposed further rules implementing the Affordable Insurance Exchanges under the Affordable Care Act (ACA). Founded in 1920, ACHA is a non-profit national health association that represents multidisciplinary college health professionals and their student health centers. ACHA represents the interests of more than 2,500 physicians, physician assistants, nurses and advanced practice nurses, nurse-directors, mental health professionals, health promotion professionals, health administrators, pharmacists, and support staff, as well as over 900 student health centers nationwide. We thank you for the opportunity to share our perspectives on these proposed regulations.

First, we applaud the Department’s thoughtful work and acknowledgement of the uniqueness of student health insurance plans as reflected in its February 12, 2011 release of the NPRM (CMS-9981-P) regarding student health insurance coverage. We are hopeful that our April 12<sup>th</sup> comments and input are helpful as the Department finalizes those rules regarding college student health insurance as a type of individual health insurance coverage.

As part of our earlier comments, we offered preliminary input regarding the interaction of student health insurance plans with the proposed state health insurance exchanges. As our understanding of the intended establishment and operation of these exchanges has evolved, our principal underlying concern remains the welfare of the college student in the individual insurance marketplace. To that end, we hope to avoid disenfranchising students and their health coverage needs by encouraging the Department to include provisions in the regulations that will:

- Enable student health insurance plans to compete on a level playing field with other individual coverage options (notwithstanding them being “...limited to students, and their dependents,

without imposing any availability requirements for non-students, or renewability requirements after an individual has ceased to be a student...”<sup>1</sup>);

- Provide those lower income students who are eligible for the premium subsidy with a mechanism for access to the tax credit if they select a qualified student health insurance plan for coverage;
- Ensure that, if student health insurance plans are eligible to compete on the insurance exchanges, they would not be subject to disproportionate assessment and user fees that would adversely affect their affordability to students;
- Accommodate the unique residency status for students studying out of state so that they are eligible for the exchange offered plans in the state where the institution of higher education is located; and,
- Accommodate the unique enrollment periods for student health insurance plans.

ACHA concurs with the approach outlined in the CMS-9989-P Executive Summary. It is critically important to the overall goals of the ACA (expanded coverage and enhanced affordability) that insurance coverage options are offered on a level and transparent playing field (i.e. the State-based exchanges). Student health insurance plans are one such affordable option for a significant number of individuals who would otherwise, not have access to coverage through a group health plan, or would have coverage that is limited in first dollar benefits when the student is away from home. For this reason, they should be included and addressed in the final regulations. Unfortunately, in providing comment, ACHA cannot comply with the Department’s request to reference the comments with the specific “issue identifier” in the NPRM, since student health insurance was not addressed and we do not know the regulatory approach that will be taken to address ACHA’s concerns submitted below.

## **1. Level Playing Field**

ACHA is concerned that student health insurance plans were not recognized or addressed in this proposed rule. As the rules are currently written there is no electronic mechanism in place for college students to compare qualified student health plans with other exchange offerings. ACHA believes that ACA compliant student health plans can present an affordable, high quality, high value option to students when compared to many other individual plan offerings at the same relative price point. Those plans would typically be the high-deductible/catastrophic coverage plans with low first dollar coverage, and network restrictions that do not serve students well, particularly when away from home, oftentimes in another state. Absent the comparison opportunity with student health plans, those plans -- at face value -- may attract unwise consumers, but when selected, will result in compromising students’ health insurance coverage, contrary to the very intent of the ACA. Student health plans that will be compliant with the ACA, will provide coverage for students that is affordable and of high value, with low deductibles and minimal out-of- pocket cost sharing (most offering first dollar coverage for on campus and local provider services). They will protect the student from the onset of health related financial hardship and prevent interference with their academic success; and, they will assure timely access to care which is key to campus public health and safety. For these reasons, we encourage the Department to include a mechanism for student health plans to compete once the State-based exchanges are established.

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<sup>1</sup> See CMS-9981-P/ Federal Register/ Vol. 76, No. 29, /Friday, February 11, 2011 / Proposed Rules, Page 7771.

## **2. Access to Premium Subsidy**

Critical to the issue of creating a level playing field for consumer comparison is the ability for eligible students to access the premium subsidy. Given that student health insurance plans were not initially considered or included in this proposed rule, there is no specified pathway for lower income students (who might otherwise choose student health insurance coverage for the value related reasons discussed above) to access the premium assistance tax credit subsidy. If student health insurance plans do not/cannot participate in the state exchanges, those students would potentially be left with the suboptimal choice of either selecting lower quality coverage with a subsidized premium, or selecting a higher value and more comprehensive student health insurance plan, but without premium assistance, despite their low income eligibility. Absent inclusion of qualified student health insurance plans in the State-based exchanges, ACHA encourages the Department to collaborate with Department of Education to identify a mechanism to provide the federal subsidy (or a credit of similar value via the federal financial aid system) to low income students who enroll in qualified student health plans. This would afford those enrollees with the same financial assistance that is offered in connection with other plans in the individual market.

## **3. Exchange Participation Costs**

ACHA is concerned about the potential impact on health plan affordability if qualified student health insurance plans were eligible and allowed to compete in the State-based exchanges. Among the features that will make ACA compliant student health insurance plans a competitive option is their affordability. This affordability is partly enabled by cost management strategies achieved through the relationship between the on-campus Student Health Center and the student health insurance plan. Student Health Centers are able to provide quality care that is tailored to the needs of the student population in a cost effective manner that mitigates impact on premiums. However, these savings and lower premiums could be eroded if assessments and user fees charged by State-based insurance exchanges are not proportionately adjusted for the cost of student health plans. Should the final regulations allow student health insurance plans to participate and compete in the exchanges, ACHA encourages the Department to include provisions in the final regulation requiring exchange participation fees to reflect fair-market value, based on actual costs, to prevent arbitrary revenue determinations by the insurance exchanges or states.

## **4. Unique Residential Status**

ACHA is concerned that residency requirements imposed by the state exchanges may pose a challenge to students who are studying on campuses located in a state other than the state where their parent's home is located. Meeting a state's requirements to prove residency and eligibility for a state's exchange may provide a barrier to access, thereby shortchanging students of the opportunity to select a student health insurance plan offered in the state where the student is studying. ACHA encourages the Department to include a provision in the regulations that affords college students eligibility status for the exchange in the state where their institution of higher education is located.

## **5. Unique Enrollment Periods**

Absent inclusion of student health insurance plans in these proposed rules, the regulations only address enrollment periods (and special enrollment periods) in the context of the typical employer-based insurance enrollment model. The proposed timing for exchange offerings (October 1, 2013 – February 28, 2014) does not accommodate the unique academic year student health insurance enrollment windows typically beginning July 1, 2013. ACHA encourages the Department to consider advancing the timing

for enrollment of exchange offerings to coincide with the timing that students are making enrollment decisions for student health plans. Consideration of a pathway similar to Small Business Health Options Programs (SHOP) exchanges may be appropriate.

ACHA thanks the Department for the opportunity to comment and participate in the regulatory process. We would be pleased to provide any additional information or clarification that would be helpful to HHS as final regulations are developed. Thank you in advance for your attention to these views.

Sincerely,

A handwritten signature in black ink, appearing to read "Anita Barkin". The signature is fluid and cursive, with the first name "Anita" written in a larger, more prominent script than the last name "Barkin".

Anita Barkin, DrPH, MSN, CRNP

President

American College Health Association