

January 27, 2023

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-9899-P
P.O. Box 8016
Baltimore, MD 21244-8016

RE: Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2024 (CMS-9899-P)

Dear Administrator Brooks-LaSure:

On behalf of the American Speech-Language-Hearing Association, I write to comment on the 2024 Notice of Benefit and Payment Parameters proposed rule and its impact on health care consumers and providers through changes in federal requirements associated with the Affordable Care Act (P.L. 111-148).

The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 223,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students.

ASHA and the Centers for Medicare & Medicaid Services (CMS) share a goal to improve health care coverage. While supportive of the majority of what CMS has proposed, ASHA offers specific comments on the following topics:

- Network Adequacy and Essential Community Providers
- Non-Standardized Plan Options
- Re-Enrollment Hierarchy
- Special Enrollment Periods
- Navigator, Non-Navigator Assistance Personnel, and Certified Application Counselor Program Standards

Network Adequacy (45 CFR Part 156.230) and Essential Community Providers (45 CFR Part 156.235)

ASHA supports the revisions to the network adequacy and Essential Community Providers (ECP) standards, which states that all individual market qualified health providers (QHPs), Stand-Alone Dental Plans (SADPs), and all Small Business Health Options Program (SHOP) QHPs across all exchanges must use a network of providers. This network must comply with network adequacy and ECP standards. ASHA supports removing the exception that the network adequacy and ECP standards sections do not apply to plans that do not use a provider network.

This change would allow oversight to ensure that health plans provide a sufficient choice of contracted providers, including ECPs. This revision could result in increased access to equitable health care, easier comparison between plans for consumers, and limit patient exposure to potential out-of-pocket costs.

Non-Standardized Plan Options (45 CFR Part 156.202)

It is not uncommon for health plans to manipulate consumer choice by creating a plethora of near-similar health plans that exploit search engine optimization and alphabetical listing on healthcare.gov to gain market share. This is not in the best interests of consumers.

While ASHA appreciates the goals of mitigating choice overload by limiting the number of non-standardized plan options that QHP issuers may offer through the Exchanges to two non-standardized plan options per product network type and metal, we are concerned that this arbitrary limit could have a chilling effect on innovation in marketplace health plans. Instead, ASHA supports the proposed meaningful difference standard that would allow for unique, innovative, and specialized plan design while limiting the risk to consumers.

Re-Enrollment Hierarchy (45 CFR 155.335)

ASHA is generally in favor of the proposed modifications to re-enrollment hierarchies. The proposed changes allow those eligible for cost-sharing reductions (CSRs) in accordance with § 155.305(g) to maintain income-based CSRs in the event that their current health plan is no longer available for the next year. This consumer protection facilitates continuous coverage for enrollees who opt to not make an active plan selection for the upcoming year.

There are many reasons why an individual may choose one particular health plan over another aside from its cost. Individuals with progressive conditions may seek plans with strong rehabilitation benefits. Someone in a rural area may choose a plan that includes the nearest in-network provider. Individuals with a child who has a developmental disorder may choose a plan based on habilitation benefits. Those who rely on specific medications may choose a plan based on pharmacy benefits. With this in mind, ASHA suggests immediate enrollee notification of auto-enrollment followed by a grace period of 45 days from the time of automatic re-enrollment, which would allow consumers to change the selection made on their behalf if it is different from the plan in which they were previously enrolled. This window of time would allow consumers the option to re-evaluate the specifics of their plan and adjust accordingly.

Special Enrollment Periods (45 CFR Part 155.420)

A 2022 study by the Kaiser Family Foundation estimates that the unwinding of the COVID-19 public health emergency (PHE) will cause between 5 million and 14 million people to lose Medicaid coverage.¹ To facilitate the seamless transition to marketplace coverage, ASHA strongly supports the change that provides Exchanges the option to implement a new special rule for consumers eligible for a special enrollment period (SEP) under § 155.420(d)(1) due to loss of Medicaid or CHIP coverage, which would give consumers up to 90 days after their loss of Medicaid or CHIP coverage to select a plan for Exchange coverage. Permanently instituting this 90-day buffer would help maintain continuous coverage for individuals, families, and children.

Navigator, Non-Navigator Assistance Personnel, and Certified Application Counselor Program Standards (45 CFR Parts 155.210, 155.215, and 155.225)

ASHA supports the proposal to repeal prohibitions on navigators, non-navigator assistance personnel, and certified application counselors from going door-to-door or using other methods of unsolicited direct contact for the purpose of application or enrollment assistance.

A 2017 study revealed that low health literacy may occur even among well-educated patients and suggests that a majority of patients in the free clinic studied had trouble comprehending and

following through on health information.² Many patients stated their greatest challenge was completing the required forms for entitlement programs including Medicare and Medicaid.³

Given the prevalence of low health literacy and the fact that health literacy is frequently associated with social and economic factors that reinforce health inequities, health literacy is truly a health equity issue.⁴ ASHA is a strong advocate for comprehensive access to and coverage of audiology and speech-language pathology services, and favors maximizing pathways to enrollment.

ASHA supports enforcement of the other existing prohibitions on navigator conduct (45 CFR Part 155.210) to protect consumers and defend against conflicts of interest.

Thank you for proposing important changes to the Notice of Benefit Payment Parameters that will improve access to care for millions of Americans. ASHA appreciates the opportunity to provide comments on this proposed rule and offer suggestions for further improvement. If you or your staff have any questions, please contact Rebecca Bowen, MA, CCC-SLP, ASHA's director for health care policy, value, and innovation, at rbowen@asha.org.

Sincerely,



Robert M. Augustine, PhD, CCC-SLP
2023 ASHA President

¹ Williams, L. Rudowitz, R, & Carallo, B. (2022). Fiscal and Enrollment Implications of Medicaid Continuous Coverage Requirement During and After the PHE Ends. Kaiser Family Foundation. <https://www.kff.org/55f1e88/>.

² Sandra D. Lane PhD, Sally J. Huntington PhD, Lynn-Beth Satterly MD, Robert A. Rubinstein PhD, Robert H. Keefe PhD & Amais Project Student Researchers (Brian Buckley, Caitlin Cornell, Alyssa Fuller, Eric Hojnowski, Ryan LaFollette, Yelena Livshits, Todd Michaelis, Claire Motyl, Tarakad Ramachandran, Devan Rahmachandrin, Sofia Seckler, Evaline Tso, and Kate Zmijewski–Mekeem) (2017) *Filling out the forms: Health literacy among the uninsured*, *Social Work in Health Care*, 56:8, 686-699, DOI: [10.1080/00981389.2017.1331947](https://doi.org/10.1080/00981389.2017.1331947).

³ *ibid*.

⁴ Lopez, C., Kim, B., Sacks, K. (2022). *Health Literacy in the United States: Enhancing Assessments and Reducing Disparities*. Milken Institute. https://milkeninstitute.org/sites/default/files/2022-05/Health_Literacy_United_States_Final_Report.pdf.