HEALTHCARE LEADERSHIP COUNCIL

March 7, 2017

Thomas E. Price, MD, Secretary
US Department of Health and Human Services (HHS)
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Attention: CMS-9929-P

Dear Secretary Price:

The Healthcare Leadership Council (HLC) is writing to thank you for releasing the proposed marketplace stabilization rule. These important regulations will help to address flaws in the Affordable Care Act (ACA).

HLC is a coalition of chief executives from all disciplines within American healthcare. It is the exclusive forum for the nation's healthcare leaders to jointly develop policies, plans, and programs to achieve their vision of a 21st century health system that makes affordable, high quality care accessible to all Americans. Members of HLC—hospitals, academic health centers, health plans, pharmaceutical companies, medical device manufacturers, biotech firms, health product distributors, pharmacies, post-acute care providers, and information technology companies—are committed to advancing a consumer-centered healthcare system that values innovation, accessibility, and affordability.

HLC believes that several steps must be undertaken immediately to stabilize the individual health insurance market, encourage greater competition, and ensure that consumers have access to affordable and high quality coverage. We are pleased to see the following concerns addressed in the proposed rule.

<u>Guaranteed Availability of Coverage</u>
HLC thanks HHS for requiring attribution of premium payment to any outstanding payment of premiums from the same issuer within the last 12 months. The current three-month grace period for nonpayment has resulted in a growing number of consumers who receive healthcare services while electing not to pay grace period premiums, which increases costs for everyone. The new regulation will discourage gaming of the system while encouraging prompt payment and continuous coverage.

To give issuers flexibility, we urge HHS to allow them to implement a premium payment threshold policy if they wish to do so. Issuers should be required to provide notice to consumers on their payment policies.

Initial and Annual Open Enrollment Periods

HLC believes shortening the initial and open enrollment periods will help ensure that these periods work effectively and will reduce the possibility of adverse selection. The new open enrollment period would align better with the open enrollment period for many employer-based plans and Medicare. We encourage HHS to do extensive outreach to consumers to educate them on the new time frame, and to fund the services of agents, brokers, navigators, and assisters to help consumers with enrollment. These efforts should be especially directed toward younger consumers who are enrolling in the marketplace for the first time, as they would help to balance the risk pool.

Special Enrollment Periods (SEPs)

Abuse of the SEPs worsens the risk pool and results in higher premiums for consumers. HLC believes that requiring all consumers to verify their eligibility for SEPs would result in more affordable coverage. Pre-enrollment verification will not prevent individuals from enrolling for short periods, but, it will go far in helping to minimize potential abuses and ensure that only those who are eligible for a SEP can enroll in coverage outside of open enrollment. We urge HHS to use automated electronic means to process consumers' documentation, and to educate consumers on the types of documentation needed. This would help ensure that these individuals complete the verification process. Allowing consumers to have the option to choose a later effective date of coverage if the document verification process is delayed would also help keep healthy consumers in the market. We recommend that the state-based exchanges require this documentation and verification process in 2017, as waiting longer would further worsen the risk pool.

Limitations on the use of SEPs to change plans and metal levels would help prevent abuse of these periods, as would allowing the exchanges to collect and store information from issuers about whether consumers have been terminated from coverage due to nonpayment of premiums. Furthermore, this abuse would be prevented by limitations on the use of marriage to enroll in a SEP unless one spouse already has had coverage, an expansion of the verification requirements for the permanent move SEP, and the application of a more rigorous test for the exceptional circumstances SEP. As noted in the proposed rule, the differences in the employer and individual market warrant these tighter restrictions on the use of SEPs.

HLC also appreciates the clarification on which SEPs are still available to consumers as this information will help educate consumers on their options. The reduction in the number of SEPs will help to prevent abuse of the system and will reduce the potential for adverse selection.

Health Issuer Standards

HLC appreciates the flexibility given to issuers in the proposed rule, including a greater variation in the actuarial level de minimis range. This proposal will promote competition in the market, and the new, more affordable plans would encourage more consumers to enroll in coverage. We urge HHS to put this flexibility into effect starting with the 2018 actuarial value calculator.

HLC also thanks HHS for its proposals on network adequacy. In order to compete on premium prices, many plans are narrowing their provider networks to hold down costs and focus on high quality providers. Limited networks can be valuable if they raise efficiency and improve quality. States have traditionally been the primary regulators for their local markets and they understand how best to meet their consumers' needs, so they should be responsible for determining network adequacy. In states that do not have the authority and means to conduct these reviews, the issuer should be accredited by an HHS-recognized accrediting agency or meet the standards of the National Association of Insurance Commissioners' Health Benefit Plan Network Access and Adequacy Model Act. This model was crafted by engaging numerous stakeholders to find a balance between issuers' needs and consumers' needs for a robust health insurance market, and it provides more flexibility than the numerical time and distance approaches.

Similarly, we appreciate the flexibility given to issuers for the essential consumer provider (ECP) standard. Returning to the 20% level of ECPs, and allowing for the write-in of ECPs that have not yet been included in HHS' list, would lessen the regulatory burden on issuers.

Thank you for the opportunity to share our thoughts on the proposed marketplace stabilization rule. HLC looks forward to continuing to work with you to make health insurance accessible and affordable for all Americans.

Sincerely,

Mary R. Grealy

Mary Grealy
President