January 8, 2024

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1850
Attention: CMS-9895-P

Re: HHS Patient Protection and Affordable Care Act; Notice of Benefit and Payment Parameters for 2025

Dear Administrator Brooks-LaSure:

The Healthcare Leadership Council (HLC) thanks the Centers for Medicare and Medicaid Services (CMS) for the opportunity to submit comments in response to the notice of proposed rulemaking entitled, "Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters (NBPP) for 2025."

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 healthcare 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, laboratories, biotech firms, health product distributors, post-acute care providers, homecare providers, group purchasing organizations, and information technology companies – advocate for measures to increase the quality and efficiency of healthcare through a patient-centered approach.

HLC appreciates CMS's efforts to expand access to quality, affordable health coverage. We have reviewed the proposed HHS Notice of Benefit and Payment Parameters for 2025 and offer the following recommendations:

<u>Further Limitations on Non-Standardized Plan Options Should be Delayed to Learn from Data</u>

In the 2024 NBPP, HHS finalized requirements to limit the number of non-standardized plan options that qualified health plan (QHP) issuers in Federally-facilitated Marketplaces (FFM) and State-based Marketplaces on the Federal platform (SBM-FP) may offer per network type, metal level, and inclusion of dental and/or vision benefit coverage, in any service area, to four options for plan year (PY) 2024 and to further limit plan options to two for PY 2025 and subsequent plan years.

HLC shares CMS's commitment to ensuring that eligible consumers are aware of their coverage options and can meaningfully compare those options to select the most affordable plan that best meets their healthcare coverage needs. However, in our comments to the 2024 NBPP, HLC expressed opposition to proposals to limit the number of non-standardized plan options due to concerns that such a limitation would negatively impact issuers' ability to innovate and develop plans that are affordable and meet the unique needs of consumers in different markets. HLC remains concerned about this magnitude of market disruption and impact on consumer choice within a two-year period.

We urge CMS to delay further reducing the number of non-standardized plans from four to two in order to allow time to collect sufficient data and feedback from stakeholders on the impact of the 2024 plan limitation on the marketplace and consumers. Countless enrollees have already been impacted by issuers discontinuing thousands of plans for PY 2024, and HLC is concerned about further limiting plan options in PY 2025 without any data on the impact to consumers and to markets from the PY 2024 limitations. In its evaluation of the impact of the 2024 limitation, we encourage CMS to consider whether other needed enhancements, such as implementing an improved meaningful difference standard and making the consumer shopping experience on HealthCare.Gov more user friendly, would better meet its goals of helping consumers more easily make coverage decisions that best fit their unique healthcare needs.

Reconsider Making the Monthly Special Enrollment Period Permanent

CMS proposes to make the monthly special enrollment period (SEP) for individuals eligible for the advance premium tax credit (APTC) who have a household income at or below 150% of the federal poverty level (FPL) permanent, no longer contingent on whether Inflation Reduction Act subsidies (that exist through PY 2025) remain in place. While HLC strongly supports CMS's goal to ensure continuous coverage for low-income individuals to advance health equity, we are concerned this change would inadvertently harm consumers by jeopardizing market stability and increasing costs to everyone in the marketplace. A monthly SEP could also result in fewer plans being available to enrollees and possibly fewer zero premium plans as issuers need to adjust to account for increased costs. This would have an adverse impact on those losing Medicaid eligibility and looking for affordable options as well as beneficiaries already enrolled in coverage on the healthcare insurance marketplace.

We recommend CMS and issuers work collaboratively to promote the benefits of continuous healthcare coverage and preventative services. A monthly SEP could send the opposite message to consumers and encourage enrollment only when individuals have an immediate need for services. To avoid large gaps in care, especially for those managing chronic conditions, individuals losing healthcare coverage should enroll under the existing SEP for loss of minimum essential coverage.

States Should Continue to Determine Network Adequacy Requirements

Beginning in PY 2025, CMS proposes two changes to network adequacy requirements that move standards setting away from states: (1) to require SBEs and SBE-FPs to impose network adequacy time and distance standards that are at least as stringent as those required for FFEs; and (2) to require that SBEs and SBE-FPs conduct quantitative network adequacy reviews prior to QHP certification that is at least as stringent as those required for FFEs.

HLC believes states are still in the best position to regulate network adequacy and is concerned this proposal could negatively impact consumer choice and affordability. Rather than a federal

“one size fits all” approach, states are better equipped to account for unique local market circumstances − such as geographic barriers, innovative health delivery methods, and provider quality − into network adequacy standards. A one size fits all approach would also hinder an issuer’s ability to differentiate provider networks, adversely impacting those consumers who value lower costs over a broader network.

If CMS finalizes these network adequacy standards proposals, we encourage the agency to delay implementation of the time and distance standards until at least PY 2026 to allow states and plans sufficient time to address operational challenges related to implementing the new standards and contract with new providers if necessary.

Thank you for the opportunity to provide comments on this proposed rule. HLC looks forward to continuing to engage with the administration as the regulatory process proceeds. If you have any questions, please do not hesitate to contact Debbie Witchey at (202) 449-3435 or dwitchey@hlc.org.

Sincerely,

Mary R. Grealy
President