



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

January 29, 2019

Administrator Seema Verma
Centers for Medicare and Medicaid Services
Baltimore, Maryland 21244

Attention: CMS-9915-P

Administrator Verma:

The Consortium for Citizens with Disabilities (CCD) Health and Rights Task Forces thank you for the opportunity to provide comments on these important proposals. Overall, we undersigned members of the Rights and Health task forces support the administration's efforts to provide greater transparency in coverage, including requirements that plans share expected cost-sharing information with enrollees.

The CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

Disclosing Cost-Sharing Information

We support the administration's proposal to require health plans to provide an estimate of cost-sharing liability to enrollees. Health care payers have instituted cost-sharing based on the idea that if consumers have liability for part of the cost of their health care, they will consume only necessary health care and try to find lower cost providers, helping control costs. However, as CMS describes in the preamble, the opacity of prices in the health care market and the inability of health plans to provide estimates of cost sharing liability make this kind of cost comparison on the part of the consumer impossible. Instead, consumers frequently have no way of knowing what their costs will be until *after* they receive care, even if they attempt to inquire to their provider or health plan. This system simply punishes people for using their health insurance, and causes them to reduce all care, even necessary care.

We believe that the seven elements proposed by CMS will all be useful, including:

- The estimates of cost sharing liability;
- Accumulated amounts, including disclosures of progress on a deductible, out-of-pocket limit, or cumulative treatment limits;
- Negotiated rates and cost sharing provided in dollars, not (or in addition to) formulas;
- Estimates when seeking out of network care, which should also include notice that the provider is out of network; and

- Notice of prerequisites of coverage, including prior authorization and step therapy that may be required.

We support the administration’s proposal but would be remiss if we did not mention that the lack of information about cost sharing is only half the problem. Cost sharing obligations, especially deductibles and coinsurance, are simply too high. We appreciate that CMS acknowledges in the preamble that “consumers are shouldering a greater portion of their health care costs,” that deductibles are rising, and that cost sharing has significantly shifted from copays to coinsurance. This burden is particularly borne by people with disabilities who interact with the health care system more often and consume more health care on average than people without disabilities. Transparency in cost sharing expectations by plans is necessary first step, but not sufficient to addressing the rising costs faced by health care consumers.

Required Methods for Disclosing Information

We believe that the Department is correct in interpreting “internet website” to include other comparable methods of accessing internet-based content, including through mobile applications. We agree with the Department that Congress did not intend to limit ability to access information via other methods of viewing internet-based content. We also encourage the department to require health plans to provide multiple means of accessing information.

According to the Department of Housing and Urban Development, low income households are more likely to lack in-home internet connectivity and instead rely on mobile devices.¹ According to the US Census, wired connections are more common among adults age 30-64.² Many low-income households have no connectivity, and may be relying on computer stations at libraries or paper methods. For these reasons, we encourage the Department to use a broad definition of “internet website,” but also require multiple internet methods as well as paper and telephone-based methods to access this information.

We also agree with the proposal that internet self-service tools should provide estimates by descriptive terms, not only methods like CPT codes which typical enrollees are unlikely to know.

The proposed rule includes several sections that mention the “accessibility” of this information, but do not mention accessibility of information to people with disabilities or people with limited English proficiency. We believe it is critical for CMS to remind health plans that their communications to beneficiaries and enrollees must meet the obligations for accessibility required under the Americans with Disabilities Act, Sections 504 and 508 of the Rehabilitation Act, and Section 1557 of the Affordable Care Act. Likewise, plans should be reminded of their obligations to ensure meaningful access for limited English proficient individuals under Title VI of the Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act.

1 Department of Housing and Urban Development. *Digital Inequality and Low-Income Households*. Fall 2016. Accessed on January 22, 2020. <https://www.huduser.gov/portal/periodicals/em/fall16/highlight2.html>

2 United States Census Bureau. *New Survey Questions Do a Better Job Capturing Mobile Use*. August 8, 2018. Accessed on January 22, 2020. <https://www.census.gov/library/stories/2018/08/internet-access.html>

Transparency in Negotiated Rates

We support the provision of cost sharing estimates and provision of both negotiated and non-negotiated prices, including for prescription drugs. Cost sharing for prescription drugs differs from other health care items and services, as coinsurance and deductibles are often based on the undiscounted “list” price, rather than the negotiated price. This is important information for beneficiaries to understand when participating in a health plan. Sharing list price and negotiated rate with beneficiaries may also promote competition in the health insurance market, as beneficiaries search for plans that negotiate lower prescription drug prices and pass those savings on to their enrollees.

Thank you for the opportunity to comment on this proposal. Please contact Rachel Patterson (rpatterson@efa.org) with any questions.

Sincerely,

American Association on Health and Disability
Allies for Independence
American Academy of Physical Medicine & Rehabilitation (AAPM&R)
American Physical Therapy Association
Autism Society of America
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
Brain Injury Association of America
Center for Public Representation
Christopher & Dana Reeve Foundation
CommunicationFIRST
Disability Rights Education and Defense Fund (DREDF)
Epilepsy Foundation
Family Voices
Justice in Aging
National Disability Rights Network
National Health Law Program
National Multiple Sclerosis Society
The Arc of the United States