



May 4, 2020

Re: Requests for Inclusion in Forthcoming COVID-19 Stimulus Package

Members of the Pennsylvania Congressional Delegation:

As of midday on Sunday, May 3, 2020, there are over 49,000 cases of COVID-19 in Pennsylvania. Over 240,000 patients have been tested for the novel coronavirus and Pennsylvania is expecting to identify more cases for testing and treatment in the coming days. As Pennsylvania, along with the rest of the nation, combats the COVID-19 crisis, the Pennsylvania Insurance Department (the Department) respectfully asks that Congress ensure access to affordable, comprehensive healthcare coverage during this vulnerable time.

On March 6, Governor Wolf signed an emergency disaster declaration requiring the administration to initiate a statewide effort to protect the public health and safety of all Pennsylvanians. As the primary regulator of the health insurance marketplace in Pennsylvania, our top priority is to ensure that Pennsylvanians have access to affordable health insurance options. Over the past several weeks, the Department has worked with Pennsylvania's major health insurers to eliminate barriers to COVID-19 testing and treatment. As a result of these efforts, and before they were required to do so by federal law, all major health insurers in Pennsylvania confirmed that they would cover medically appropriate COVID-19 testing without any cost-sharing for consumers. Many have also waived cost-sharing for COVID-19 associated treatment and relaxed due dates for premium payments, extended grace periods, waived late fees and penalties, and allowed payment plans for premium payments.

These steps are vital to ensuring comprehensive and timely access to care; however, more can be done. Access to health insurance coverage and therefore to care is crucial in supporting Americans through this crisis. Therefore, the Department urges Congress to include the following requests in the next COVID-19 response package:

Affordability

Mitigate the impact of COVID-19 on premium increases: While much focus is on 2020, we must also look forward to the impact COVID-19 could have on the cost of health care going forward. With 2021 insurance products about to be filed, Pennsylvania recommends that Congress dedicate funding to mitigate the impact of COVID-19 on premium increases in future years. COVID-19 is adding costs to the healthcare system but it is difficult to predict how those costs will be allocated across time. To help provide stability and affordability to the insurance market during these precarious circumstances, we respectfully urge Congress to implement a reinsurance program, reimbursing carriers for a proportion of the highest cost claims, including COVID-19 claims. This would help alleviate potential premium increases for consumers, thereby ensuring that health insurance is as affordable as possible when it is especially vital to safeguard coverage. Congress might also consider other steps, such as other types of risk mitigation programs or committing to cover the cost of a vaccine or other treatments developed in the future, to prevent these hypothetical costs from being priced into next year's premiums.

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Provide advance premium tax credits (APTC) reconciliation flexibility: The Department requests that flexibility in APTC reconciliation be granted during these extenuating circumstances. Traditionally, a consumer who has a Marketplace plan and used APTC to lower their monthly payment must “reconcile” when they file their federal taxes. To “reconcile” they use 2 figures. The amount of premium tax credit they used in advance during the year and the premium tax credit they actually qualify for based on their final income of the year. If at the end of the year a consumer has received more premium tax credit in advance than is due based on their financial income, the consumer would have to pay back the excess when filing tax returns. Given how much income fluctuation there is likely to be for individuals during the COVID crisis, which includes the additional income provided by the Federal Pandemic Unemployment Compensation, the federal government should provide flexibility during the reconciliation process for the 2020 plan year. This could be accomplished through either forgiving the excess credit or limiting the amount of excess the consumer must pay back.

Finally fix the “family glitch”: The Department also recommends that Congress implement a fix to the so-coined “family glitch”. As the Affordable Care Act (ACA) law is currently written, financial assistance eligibility for a marketplace plan is dependent upon whether a family has access to affordable employer-sponsored coverage. However, the definition of “affordable” for both an individual employee and a family is based only on the cost of individual-only coverage and does not take into consideration the frequently significantly higher cost of a family plan if an employer does not subsidize coverage for spouses and dependents. This “family glitch” prevents families from qualifying for premium tax credits when those tax credits are very much needed. The COVID-19 crisis underscores the importance of not letting technicalities lock people out of affordable coverage and Congress should take this opportunity to close this harmful loophole.

Offer additional subsidies: Traditionally, premium tax credit eligibility and the credit amounts are based on consumers’ household income relative the federal poverty level (FPL). Currently, if consumers’ income is above 400% FPL, the consumer does not qualify for APTC. The Department recommends that the 400% FPL threshold be removed to allow those with incomes above 400% FPL to qualify for additional subsidies.

Subsidize COBRA premiums until the end of the current plan year: The Department recognizes that measures to limit further spread of the virus have unfortunately led to the displacement of workers. COBRA provides a critical bridge, allowing an individual to temporarily keep health insurance after employment ends; however, an individual must pay 100% of the premiums, including the share the employer previously covered, plus a small administrative fee. While these individuals would have the opportunity to transition to Marketplace coverage, for many that transition would mean re-starting their annual deductible regardless of what they have already spent on health care, a significant financial challenge under normal circumstances but even more so for those who have recently lost their jobs. The federal government subsidizing COBRA premiums until the end of the current plan year would protect consumers from this additional financial burden that they may not be able to bear during these difficult times. To the extent the employer coverage plan year does not align with Marketplace coverage, these individuals should be guaranteed access to a special enrollment period to transition onto the Marketplace.

End balance billing: The Department implores Congress to pass legislation protecting consumers from surprise medical bills. At no time is it more important for a consumer seeking in-network medical care to be protected from being unexpectedly billed for the difference between an out-of-network provider’s charges and the amount paid by the consumer’s insurance company. In many instances of surprise balance bills, the consumer did everything in their control to avoid an out-of-network claim; however, despite their best efforts, they still received a significant surprise bill. During the COVID-19 crisis and the extenuating circumstances caused by the virus, consumers must be held harmless.

Access

Institute a Special Enrollment Period (SEP) for the federal marketplace: The Department requests opening of a SEP through HealthCare.gov so that uninsured Pennsylvanians can purchase comprehensive health coverage. The Department urges that Congress make the SEP available immediately and keep it open for at least 30 days. Many state-based exchanges, to which Pennsylvania is transitioning for 2021, have already taken this action as a means to protect residents and facilitate access to COVID-19 testing and treatment. The Department urges that this coverage be effective immediately. Establishing a SEP during this crisis is a responsible precaution that will not only benefit Pennsylvanians but will also contribute greatly to the management of the virus.

Ensure public awareness of coverage options: As the federal government reacts and adapts to COVID-19 and its consequences, policy changes are occurring at a rapid rate. As a result of well-intended swift action, there is confusion and uncertainty among Pennsylvanians regarding what options they have to secure health care coverage. COBRA, the health insurance Marketplace, and state Medicaid programs are all options consumers should consider, but in order to fully evaluate their options, consumers first need to understand which coverage options are available to them. As we collectively navigate these changes during a time when it is especially vital for Pennsylvanians to have comprehensive health insurance, Congress should ensure that the American people are well informed of their health care coverage options and the impact of COVID-19 on their current coverage.

We urge Congress to take these necessary actions to help Pennsylvanians receive the coverage they need. The Department is committed to continuing to work with insurers, others across the state, and the federal government to bring affordable and comprehensive health insurance to Pennsylvanians throughout the COVID-19 disaster. Thank you for your consideration and your efforts thus far to ensure barriers to obtaining coverage are broken down for all Pennsylvanians during this vulnerable time.

Sincerely,



Jessica K. Altman
Commissioner