April 16, 2020

Alex M. Azar II
Secretary, Department of Health and Human Services
Health Resources and Services Administration
200 Independence Avenue SW
Washington, DC 20201

Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Baltimore, MD 21244-8016

Dear Secretary Azar and Administrator Verma:

On behalf of the American College of Obstetricians and Gynecologists (ACOG), the Nation’s leading women’s health organization, representing over 60,000 physicians and partners dedicated to advancing women’s health, thank you for your work to date in response to COVID-19, a global pandemic and serious public health threat. ACOG wants to ensure that the Centers for Medicare & Medicaid Services (CMS) continue to center the unique needs of women and their families in all COVID-19 response efforts. While it is unclear how long the COVID-19 pandemic will last and what the full extent of its impact on the health care system will be, it is imperative that access to medical care be prioritized. Accordingly, we urge you to immediately suspend the June 27, 2020 implementation of CMS-9922-F: Exchange Program Integrity. Continued implementation of this regulation will have significant economic consequences for health plans, increase costs to states, result in more uninsured individuals, and compromise the ability of Americans to obtain access to care during this public health crisis. This would be detrimental to the health and wellbeing of many Americans and could worsen other public health crises, such as the nation’s persistent maternal mortality crisis.

Finalized in December of 2019, the Exchange Program Integrity rule requires qualified health plan (QHP) issuers to send (and QHP enrollees to pay) two separate monthly premium payments for the portion of coverage that is attributable to abortion services and the portion attributable to all other health care services. Abortion is an essential component of comprehensive reproductive health care, as recognized by the nation’s medical community and medical accrediting bodies. It is safe and common, accessed by at least a quarter of women in the United States during their lifetimes. ACOG opposes CMS-9922-F because of its potential impact on the ability of individuals to access the full scope of reproductive health care. In written comments on the proposed rule, ACOG explained that these regulations would create burdensome requirements for health plans and result in fewer coverage options for reproductive health services in the Exchanges; create unnecessary obstacles for consumers and result in more uninsured individuals, including women of reproductive age; interfere with the patient-physician relationship; and limit access to basic health care.
In addition to these concerns, HHS itself recognized that implementation of the final rule will have significant economic consequences for health plans. These include an additional $4.1 million in contracting costs for system changes and overtime personnel payments. HHS also predicted that the one-time costs to bring all affected issuers across the country (94 in total across 21 states offering a total of 1,467 plans) into compliance and implement the necessary technical changes would require over 2.9 million hours of work and cost approximately $385 million. HHS also estimates that, on average, each state Exchange will incur one-time costs of $750,000. For state-based Exchanges that permit the sale of qualified health plans offering the full scope of reproductive health care, those one-time costs will total approximately $9 million, with ongoing costs of $2.4 million for 2020 alone.

These budgetary and staffing implications are significant, and given the implementation date of June 27, could detract from health plans’ ability to respond to COVID-19. In addition, it is likely that these numbers now represent a substantial underestimate of the costs of implementing the final rule, as more individuals look to the Exchanges for coverage due to job loss as a result of COVID-19. Indeed, forecasters predict as many as 20 million people could lose their jobs by the end of April.

Any effort spent implementing these provisions would be inconsistent with the Office of Management and Budget’s (OMB) Directive M-20-16, “Federal Agency Operational Alignment to Slow the Spread of Coronavirus COVID-19,” issued on March 17, 2020. This directive instructs federal agency heads to “prioritize all resources to slow the transmission of COVID-19” and otherwise focus exclusively on mission-critical functions. Indeed, addressing this public health crisis will require state health and insurance agencies to focus on the mission-critical functions of assuring access to and maintenance of health coverage. The Exchange Program Integrity final rule is antithetical to these objectives as it would create costly and onerous new billing systems that will lead to consumer confusion and coverage termination. Now more than ever, ACOG urges you to immediately suspend the June 27, 2020 implementation of CMS-9922-F: Exchange Program Integrity.

The COVID-19 pandemic is testing the strength of our health care system and the ability of the government to meet the needs of all those living in the United States. We appreciate your responsiveness to this public health crisis and your constant evaluation of the opportunities for action. While the United States faces an unprecedented public health crisis with the COVID-19 pandemic, it also faces a persistent and unacceptable maternal mortality crisis. There is reason for concern that the crisis will worsen if women lose access to health care or become uninsured. It is critical that the government take steps to ensure that people are able to access health care during this time. ACOG hopes to continue our partnership with you as you rapidly work toward our shared goal of controlling and mitigating the negative impacts of this global pandemic. Should you have any questions, please contact Emily Eckert, Manager, Health Policy, at eckert@acog.org or 202-863-2485.

Sincerely,

Maureen G. Phipps, MD
Chief Executive Officer

2 “HHS Acknowledges Larger Costs In Finalizing Rule On Separate Transactions For Abortion Coverage In Marketplaces,” Health Affairs Blog, December 23, 2019. DOI: 10.1377/hblog20191223.862619
5 ACOG comments on CMS-9922-F: Patient Protection and Affordable Care Act; Exchange Program Integrity. Available at: https://www.regulations.gov/document?D=CMS-2018-0135-74732
6 American Academy of Family Physicians (AAFP), American Academy of Pediatrics (AAP), American College of Obstetricians and Gynecologists (ACOG), American College of Physicians (ACP), American Medical Association (AMA), and American Psychiatric Association (APA) joint comments on CMS-9922-F: Patient Protection and Affordable Care Act; Exchange Program Integrity. Available at: https://www.regulations.gov/document?D=CMS-2018-0135-74565
8 Ibid.
9 Ibid.
10 Ibid.