Improving access.
Transforming health.

March 13, 2026

Dr. Mehmet Oz
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2027; and Basic Health Program [CMS-9883-P] RIN 0938-AV62

Dear Administrator Oz,

On behalf of The Patient Access Network (PAN) Foundation, one of the nation's largest charities, I write to provide comments on the Department of Health and Human Services' (HHS) 2027 Notice of Benefit and Payment Parameters (NBPP) proposed rule.

As a leading charitable foundation and healthcare advocacy organization, the PAN Foundation is dedicated to accelerating access to treatment for those who need it most and empowering patients on their healthcare journeys. We provide critical financial assistance for treatment costs, advocate for policy solutions that expand access to care, and deliver education on complex topics—all driven by our belief that everyone deserves access to affordable, equitable healthcare.

Please find PAN's comments on the proposed rule below:

Reduce Maximum Out-of-pocket Limit

For 2027, the annual limitation on cost-sharing for Affordable Care Act (ACA) plans is $12,000 for individuals, an amount that most patients simply do not have and is a significant increase from the 2026 limit of $10,600. The ACA's annual maximum out-of-pocket limit is intended to provide financial protection to plan enrollees, however at a price point this high, it becomes meaningless for most Americans. While healthcare costs are rising, paychecks are not; the maximum out-of-pocket limit is increasing faster than wages and salaries with the divide predicted to grow year-over-year.[1] People are having to spend more of their income on out-of-

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[1] Mathew Rae, Krutika Amin, Cynthia Cox, ACA's Maximum Out-of-Pocket Limit is Growing Faster than Wages, Peterson-KFF, Health System Tracker, July 20, 2022, https://www.healthsystemtracker.org/brief/aca-maximum-out-of-pocket-limit-is-growing-faster-than-wages/#Maximum%20out-of-pocket%20limits%20for%20HSA-qualified%20health%20plans%20and%20other%20private%20non-grandfathered%20health%20plans,%20actual%20(2014-2023)%20and%20projected%20(2024-2033).

pocket health care costs. Increasing the annual threshold to over $12,000 will push more people into poorer health and debt.

When comparing the changes over time for the maximum out-of-pocket limit of ACA plans and employer-based Health Savings Account-qualified health plans, the former is increasing more rapidly than the latter due to differences in the methodology.[2] HHS could choose various policy options to slow the growth and reduce the impact on patients: the methodology and index used to set the ACA limit could be updated to mirror that of HSA plans, the benchmark used to set cost-sharing reductions could be changed from silver to gold plans, or a more reasonable cap could be instituted like in Medicare plans.[3], [4] This could alleviate the burden of out-of-pocket costs on many Americans, especially those with serious, chronic conditions.

Copay Accumulator Policy

PAN remains disappointed that the proposed rule does not revise policies related to copay assistance and a patient's deductible. We urge the Centers for Medicare and Medicaid Services (CMS) to allow copay assistance to be counted toward a patient's deductible to enable patients to access needed treatments without financial hardship.

Copay accumulators are discriminatory toward those with chronic illnesses and harm patients while benefiting insurers and PBMs. Copay accumulator adjustment policies unfairly target people with serious, chronic illness, undermining the ACA protections that prohibit insurers from charging people with pre-existing conditions more for health insurance than healthier enrollees. Copay assistance is available generally for high-cost brand and specialty medications without a medically equivalent generic alternative and is used by people with serious and complex chronic illnesses.[5] These policies subvert the benefit of copay assistance, thereby discriminating against people living with chronic conditions. People with low incomes and people of color are more likely to be living with a chronic illness;[6] therefore, these policies target the most vulnerable patients, enabling insurance issuers to essentially underwrite insurance policies for people who require specialty or brand medications.

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[2] Peterson-KFF Health Systems Tracker, ACA's Maximum Out-of-Pocket Limit is Growing Faster than Wages.
[3] Center on Budget and Policy Priorities, Building on the Affordable Care Act: Strategies to Address Marketplace Enrollees' Cost Challenges, April 10, 2024, https://www.cbpp.org/research/health/building-on-the-affordable-care-act-strategies-to-address-marketplace-enrollees.
[4] Jesse Baumgartner, Munira Gunja, Sara Collins, The New Gold Standard: How Changing the Marketplace Coverage Benchmark Could Impact Affordability, The Commonwealth Fund, September 22 2022, https://www.commonwealthfund.org/publications/issue-briefs/2022/sep/new-gold-standard-changing-marketplace-coverage-benchmark-affordability#:~:text=What%20Are%20Cost%2DSharing%20Reductions,percent%20AV%20(silver%2D73).
[5] K. Van Nuys, G. Joyce, R. Ribero, D.P. Goldman, A Perspective on Prescription Drug Copayment Coupons. Leonard D Schaeffer Center for Health Policy & Economics. (February 2018), https://healthpolicy.usc.edu/research/prescription-drug-copayment-coupon-landscape/
[6] The Center for American Progress, Fact Sheet: *Health Disparities by Race and Ethnicity*. (May 7, 2020), https://www.americanprogress.org/article/health-disparities-race-ethnicity/

When copay assistance is not counted toward a patient's deductible and out-of-pocket costs, the patient alone is left responsible for paying what is often an exorbitant amount in out-of-pocket costs that can inhibit access to a needed prescription medication. This means that the insurer is often accepting payments above and beyond the maximum cost sharing requirement required by the ACA, as the dollars from third-party payments are not counted towards the calculation of the patient's deductible or annual out-of-pocket maximum. PBMs are potentially collecting the payments twice - once via copay assistance, and again when the patient requires other care, or when their copay assistance runs out and they need to get their prescriptions refilled assuming they can afford to do so.

In September 2023, the District Court for DC struck down copay accumulator policies, requiring insurers to count copay assistance toward a patient's out-of-pocket limits in most cases. In response, CMS indicated that it would issue a new rule on these policies. Two and a half years later, this rule has still not yet been issued, leaving many patients, particularly those who require high-cost specialty medications to manage chronic illnesses, struggling to afford their prescriptions. The financial hardship associated with these policies can lead patients to ration medication or discontinue treatment altogether. PAN urges CMS to promptly issue a new rule that will close this loophole which is allowing insurers and PBMs to profit at patient expense.

Allow States to Add Routine Adult Dental Benefits as Essential Health Benefits (EHBs)

PAN opposes CMS's proposal to reverse course and reinstate a prohibition on states to include routine adult dental services as an essential health benefit. Oral health plays a vital role in enhancing overall health outcomes and improving patients' quality of life. States should be allowed the option to add routine adult dental services as an EHB by updating their EHB-benchmark plans and would align these plans more closely with the private marketplace. Given the expanding dental benefit offerings in employer-based plans, it is essential that the scope of EHBs be extended to Americans obtaining Marketplace coverage.

Former US Surgeon General David Satcher said more than 20 years ago that "you cannot be healthy without oral health.[7]" But for working-age adults disparities in oral health outcomes and in access to dental care have widened by income and race. Treating dental care as essential health benefit is the only way to address these challenges.

Further, PAN supports removal altogether of provision that prohibits health plan issuers from offering routine non-pediatric dental care, routine non-pediatric eye exam services, long-term/custodial nursing home care benefits, or non-medically necessary orthodontia as an EHB. Like dental care, significant disparities in vision health and eye care exist. Vision benefits are also routinely offered in employer-based plans and therefore should be an option for states to include in their EHB-benchmark plans.

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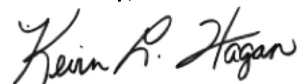
[7] US Department of Health and Human Services. *Oral Health in America: A Report of the Surgeon General*. National Institute of Dental and Craniofacial Research, National Institutes of Health; 2000. https://www.nidcr.nih.gov/sites/default/files/2017-10/hck1ocv.%40www.surgeon.fullrpt.pdf

Vaccine Coverage
Vaccination is a high value health intervention that is central to disease prevention and protecting the overall health and wellbeing of older adults as well as individuals with chronic conditions. Vaccines have a demonstrated track record of success as a cost-effective means of reducing disease burden and saving lives. It is vital that HHS provide simple and clear guidance on immunization coverage to plans, their enrollees, as well as the range of providers who serve them.

PAN urges that marketplace enrollees have access to the full range of vaccines with a recommendation from the Advisory Committee on Immunization Practices (ACIP). PAN encourages CMS to include in the 2027 NBPP updated plan guidance and materials clarification that all vaccines with a recommendation from ACIP, including vaccines recommended for travel and some specific groups listed on the CDC website, are considered part of the immunization schedule and must be covered by plans without patient cost-sharing.

The PAN Foundation appreciates your leadership to increase equitable access to and affordability of health care for more Americans. Thank you for your consideration of our comments. If you have questions about the issues raised, please contact Amy Niles, Chief Advocacy and Engagement Officer at aniles@panfoundation.org.

Sincerely,



Kevin L. Hagan
President and Chief Executive Officer

PAN Foundation
1032 15th Street NW
Suite 413
Washington DC 20005