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November 8, 2024

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7500 Security Blvd.
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Submitted electronically: www.regulations.gov

RE: Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2026; and Basic Health Program

Dear Secretary Becerra and Administrator Brooks-LaSure:

The Healthcare Association of New York State, on behalf of our member nonprofit and public hospitals, nursing homes, home health agencies and other healthcare providers, appreciates the opportunity to comment on HHS' proposed Notice of Benefit and Payment Parameters for 2026.

HANYS is committed to supporting policies that build affordable, high-quality and comprehensive health insurance coverage through federal and state marketplaces. While New York has a state-run exchange, which limits the impact of some of the proposed rule changes in our state, HANYS supports many of the proposed changes, as they aim to increase patient access to equitable care, provide clear information to consumers and reduce unnecessary obstacles.

42 CFR Part 600: BHP Methodology Regarding the Value of the Premium Adjustment Factor

In cases where there is more than one second-lowest cost silver plan in a county, CMS proposes to base the PAF on the premium of the second-lowest cost silver plan applicable to the largest portion of the county as measured by total population.

However, New York currently selects the third-lowest cost silver plan in its BHP payment methodology. This proposal would be a meaningful change from New York's current practice and would present operational challenges, as enrollment is not static throughout the year. New York has appreciated flexibility in this area, and HANYS supports continued flexibility for states in this methodology.

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Part 155 (§§ 155.210, 155.215 and 155.225): Exchange Establishment Standards and Other Related Standards; Solicitation of Comments – Navigator, Non-Navigator Assistance Personnel, and Certified Application Counselor Program Standards

HANYS supports the proposal to increase access and visibility to programs designed to reduce medical debt. The New York State of Health exchange is comprised primarily of lower-income individuals, and HANYS supports programs that would reduce the impact of medical debt for those people. New York has a robust assister program, comprised of certified application counselors, marketplace-facilitated enrollers and navigators. This provides a direct pathway to uninsured consumers who need help applying for health insurance coverage through the New York State of Health.

New York also administers a statewide contract for a Community Healthcare Advocate program. The CHA program is comprised of a network of organizations from around the state that help individuals, families and small businesses with post-enrollment health insurance issues like medical debt via a helpline or in-person assistance. HANYS supports programs like this and urges the departments to fund and invest in programs that allow assistors to inform and connect consumers with financial assistance programs.

§ 155.220: Ability of States to Permit Agents and Brokers and Web Brokers to Assist Qualified Individuals, Qualified Employers or Qualified Employees Enrolling in QHPs

While this proposal would not impact NYSOH directly, HANYS supports the departments' proposal to strengthen security standards for exchanges by suspending an agent's or broker's ability to transact information with the exchange if risks to exchange operations are suspected. HANYS shares CMS' commitment to fraud prevention. NYSOH has measures in place to monitor and act when there is noncompliance by agents and brokers.

§ 155.305: Requirement for Notification of Tax Filers and Consumers Who Have Failed to File and Reconcile APTC for Two Consecutive Tax Years

HANYS supports the proposal to send notices to enrollees or their tax filers for the second consecutive year in which they have failed to reconcile, to remind them to file and reconcile their advanced premium tax credits, as required. Promoting continuity of coverage is key to ensuring individuals can access the healthcare services they need. Gaps in coverage can result in treatment interruptions, lack of access to prescription medicine and disruptions in the provision of preventive services.

§ 155.400(g): Establishment of Optional Fixed-dollar Premium Payment Threshold and Total Premium Threshold

CMS proposes two options to give plans flexibility for enrollees who have paid most, but not all of their monthly premium. HANYS supports the agencies' efforts to offer flexibility and to support continued enrollment so that consumers are not disenrolled despite paying most of their premiums. Both proposed options, either a fixed-dollar or a percentage-based threshold to be used before triggering the disenrollment "grace period," are good options for maintaining enrollment. Most issuers in New York have a premium payment threshold percentage of 95%; few use a fixed-dollar payment threshold.

Flexibility in premium payment thresholds can prevent unnecessary gaps in coverage that could have serious consequences for patients with complex medical needs. HANYS urges the departments to require issuers to choose the option that is most beneficial to the consumer. Furthermore, HANYS would support a threshold option where the grace period is triggered either after a consumer owes 5% or \$5 of their member responsibility, whichever option offers more benefit to the consumer.

§ 155.505: General Eligibility Appeals Requirements

HANYS supports the proposal to allow applicants to file appeals through the HHS appeals entity or through the state exchange entity on behalf of enrollees. This proposal would streamline the appeals process, create uniformity across platforms and remove barriers to appeal resolutions. HANYS encourages the departments to continue to explore additional pathways to encourage coverage continuity and prevent unnecessary coverage gaps.

§ 155.1000: Certification Standards for QHPs

HANYS supports the proposal to revise regulations to explicitly give exchanges the authority to deny certification of a health plan that does not meet the minimum Qualified Health Plan standards. Codifying this authority will clarify the exchange's role in providing a platform only for comprehensive health insurance options and improve the experience for consumers.

Part 156 (§ 156.80): Health Insurance Issuer Standards Under the Affordable Care Act, Including Standards Related to Exchanges Silver Loading

CMS recognizes that “silver loading” can be an appropriate practice in response to the cessation of CSR funding. HANYS supports codifying guidance that silver loading practices are allowable when the adjustments are reasonable and actuarially justified.

§156.135: AV Calculation for Determining Level of Coverage

HHS proposes to end the practice of releasing the draft version of the AV Calculator for public comment ahead of the final version. HHS proposes to only release the final version of the AV Calculator for a plan year. HANYS does not support only releasing a final AV calculator. Given that rate development begins early in the year for most states, having access to a draft version early in the year guides health plan product development, including standard plans. Without this lead time, it is difficult for states to stay on schedule for key milestones.

§ 156.1130: Quality Improvement Strategy

CMS proposes to share aggregated, summary-level quality improvement strategy information publicly, beginning January 2026. HANYS supports this proposal and agrees that sharing quality improvement strategies more broadly promotes transparency, improves engagement with best practices and provides consumers with useful information about quality improvement. However, HANYS is concerned about the increased risks to both healthcare providers' and consumers' medical privacy involving sensitive data. HANYS urges the departments to enact steps to protect individual healthcare professionals and their patients from targeted action and criminalization with respect to their provision of essential healthcare services.

HANYS appreciates the opportunity to provide feedback on the proposed rule. If you have questions regarding our comments, contact me at 518.431.7889 or at vaufiero@hanys.org or Anna Sapak, manager, insurance and managed care, at 518.431.7871 or asapak@hanys.org.

Sincerely,



Victoria Aufiero
Vice President, Insurance, Managed Care and Behavioral Health