March 2, 2020

Secretary Alex Azar
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS–9916–P

Re: Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2021, CMS-9916-P

Dear Secretary Azar,

On behalf of the Association of Asian Pacific Community Health Organizations (AAPCHO), thank you for the opportunity to submit these comments in response to the Department of Health and Human Services and the Center for Medicare and Medicaid Services Notice of Proposed Rulemaking: *Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2021*. AAPCHO is extremely concerned that this rule will result in the loss of health insurance of many low-income people, including many Asian American, Native Hawaiian, and Pacific Islander (AANHPI) individuals.

AAPCHO is a national not-for-profit association of 34 community-based health care organizations, 29 of which are Federally Qualified Health Centers, that primarily serve medically underserved AANHPIs. AAPCHO is a national voice to advocate for the unique and diverse health needs of AANHPI communities and the community health providers that serve those needs. Our work includes developing, testing, and evaluating health education and promotion programs of national significance. We also offer technical assistance and training to promote the establishment and expansion of services for medically underserved AANHPI communities.

Health centers serve more than 27 million patients across the United States, including 1.2 million AANHPI patients. For AANHPI communities, health centers are a medical lifeline, providing holistic, high quality, coordinated services that are culturally and linguistically appropriate. AANHPI-serving health centers serve disproportionately more Limited English Proficiency (LEP) patients than the average health facility, recognizing that effective care requires reducing language barriers. The National Association of Community Health Centers (NACHC) reports that nearly 1 in 3 patients served by health centers was LEP and 95% of health center patients surveyed reported that their clinicians spoke their language. AANHPI-serving health centers employ multilingual staff and may serve as high as 99% LEP patients with some health centers providing services in over 15 languages.

Health centers serve as a key source of outreach and enrollment assistance nationally. In 2017 alone, health centers assisted over 5.43 million people in their efforts to gain health care coverage, including through the Marketplace. Our members have been leaders in outreach and enrollment efforts for health insurance marketplaces across the country, specializing in serving community members in linguistically and culturally appropriate ways. AAPCHO was proud to work on the development of a first-of-its-kind glossary to health enrollment for AANHPI individuals. This glossary was developed for in-person assisters, navigators, and education and outreach staff providing health insurance enrollment services and consists of 100 frequently used health insurance enrollment related terms. It was developed by 70 AANHPI serving community-based

organizations and federally qualified community health centers and has undergone peer review for accessibility and readability. The glossary is currently available in multiple languages, including English, Traditional Chinese, Vietnamese, Korean, Laotian, Tagalog, Marshallese, and Tongan.

AAPCHO is committed to supporting AANHPI consumers enroll in high quality, affordable coverage through the health insurance marketplaces. As such, we are extremely concerned about some of the proposals in this NPRM. AAPCHO's specific comments are as follows:

Auto Reenrollment

AAPCHO strongly opposes the proposed changes to the current automatic re-enrollment policy.

Under current rules, if a consumer does not update their income during marketplace open enrollment, the health plan renews for the next year with the same tax credits. However this proposal would eliminate the automatic renewal process for consumers whose tax credit covers the full cost of the premium and the enrollee pays $0. If these consumers do not update their income and other financial information, they would have to pay a premium upon reenrollment.

While CMS's proposed justification for this rule change is to reduce fiscal and regulatory burdens and encourage active coverage decisions, we are concerned that the proposal will ultimately result in eligible consumers losing coverage. The proposed rule arbitrarily targets some of the lowest marketplace consumers and monetarily penalizes them when they reenroll by withholding some or all of their tax credits until the consumer updates their financial information, even if there are no changes to report. This could lead to many reenrolling in their plan without any Advanced Premium Tax Credit (APTC) assistance, making coverage unaffordable with a likelihood that they will not be able to pay their January 1 premiums. If they miss their January 1 premium payment, they may be locked out of coverage for the entire year, unless they qualify for a special enrollment period. This will dramatically impact AAPCHO health center patients as the majority of all patients seen at AAPCHO health centers are low-income and the patients who are eligible for marketplace coverage are frequently eligible for financial help to purchase health insurance, including APTCs.

Furthermore, the loss of coverage will result in significant confusion over what is happening, why, and how to correct it. This will be a particular burden on LEP individuals who may experience language barriers to understanding the enrollment process. The result of this policy is that a number of eligible individuals will experience harmful coverage gaps and loss of health insurance.

While uninsured, very low-income individuals with chronic diseases, such as diabetes, will have their conditions become uncontrolled and more acute, increasing their likelihood of having a major medical event occur, such as a heart attack. This could result not only in high uncompensated hospital costs and financial costs to their families, but also significantly poorer health outcomes, which may prevent them from working in the future or having the resources to care for their families due to their resulting frail health status from not being able to access preventive healthcare to control their chronic diseases after losing Medicaid coverage.

HHS says it would conduct outreach about this new process and reach out to consumers affected by such a change. Yet many people do not know they should update their information during open enrollment and have been auto-reenrolling with $0 premiums for a number of years. The result is they may not renew their plan if they get a bill from the insurance company for the full amount (even if they could get APTCs restored if they update their information or obtain a refund from reconciling when they file their federal income taxes). And outreach has not always proven effective in reaching certain consumers, due not only to confusion about how health insurance works but

also language barriers and low health literacy. This proposal does not specify how additional outreach will take place—and how they will specifically educate and address the needs of LEP individuals. In addition to investing in significant outreach and education, CMS should also reverse the substantial funding cuts to advertising, marketing, outreach and the Navigator program and send accessible and comprehensive notices to enrollees about the benefits of proactively re-enrolling, as this will ensure not only that individuals are re-enrolled with the correct amount of financial assistance, but also in a plan that best meets their needs. We urge HHS to withdraw this proposal.

Co-Pay Accumulators

AAPCHO encourages CMS to allow the use of co-pay accumulators in marketplace plans. Many consumers struggle to afford the prescription drugs they need to maintain or improve their health—prescriptions drug costs are high and they often face high cost-sharing or prohibitively high deductibles in their insurance plans. To help make prescription drugs more affordable, many consumers rely on pharmaceutical manufacturers' coupons to offset the out-of-pocket costs and these coupons count towards deductibles and out-of-pocket limits. They help make prescription drugs affordable in the short term—and throughout the year. However, in the proposed rule, health insurance companies would be allowed to not count coupons towards a consumer's deductible and out-of-pocket maximum. As a consequence, when coupons run out, the consumer may be required to pay the full amount for a drug until meeting the deductible; and continue to pay cost-sharing until reaching the out-of-pocket maximum. As a result, many patients may no longer be able to access potentially life-saving medication because they cannot afford it, leading to disruptions in treatment and worse health outcomes.

This is particularly troublesome for many Asian Americans, Native Hawaiians, and Pacific Islander patients who experience health disparities that require prescription drugs to reduce and manage their health challenges. For example, fifty percent of individuals with hepatitis B in the United States are within the AANHPI community, and 1 in 10 Asian Americans in the United States have hepatitis B. These cases can be managed with daily medication that may be cost prohibitive if coupons run out or the costs of drugs is not counted towards a consumer's deductible and out-of-pocket maximum. Similarly, Native Hawaiians and Pacific Islanders experience higher than average rates of diabetes and hypertension, which could also be negatively impacted by the proposed rule.

Making consumers pay more for drugs, even where there is no generic equivalent, is punitive and would not achieve the broader policy goal of reducing prescription drug costs. We strongly encourage the administration to withdraw this proposal.

AAPCHO appreciates the opportunity to comment on the proposed rule CMS-9926-P, the Notice of Benefit and Payment Parameters (NBPP) for 2020. We are concerned by several proposals that will make health care access more difficult for patients, especially for low-income and limited English proficiency. We strongly encourage CMS to revise the proposed rule and address these concerns to improve access and affordability to care for all Americans and residents of our country.

Sincerely,

Adam P. Carbullido
Director of Policy and Advocacy