Comments to the Board – External

Table of Contents

June 15, 2017 Board Meeting

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Correspondence with Elected Officials

- None

Correspondence with Stakeholders

- Blue Shield of California, June 7, 2017
- Kaiser Permanente, June 12, 2017
- Joint Letter: Consumers Union, Health Access, California Pan-Ethnic Health Network, Western Center for Law and Poverty, Asian Americans Advancing Justice, California Immigrant Policy Center, Children Now, Disability Rights Education and Defense Fund, National Health Law Program, Project Inform, Community Health Councils, June 13, 2017
- California Association of Health Plans, June 13, 2017

blue of california

June 7, 2017

Peter Lee, Executive Director
Covered California
1601 Exposition Way
Sacramento, CA, 95815

RE: Covered California Supplemental Guidance on Rate Filing Instructions Related to the Cost-Sharing Reduction Program

Dear Mr. Lee,

Blue Shield of California ("Blue Shield") is a nonprofit health plan with a mission to ensure that all Californians have access to high quality care at an affordable price. We write in support of the draft policy issued on June 6, 2017, by Covered California regarding rating for 2018.

The Affordable Care Act, through the Cost-Sharing Reduction (CSR) benefit, provides important financial assistance to reduce out of pocket costs for low-income individuals to help them access care. For example, a family of four earning around $35,000 a year enrolled in a silver plan would have a $5,000 deductible; however, with this financial assistance their deductible is reduced to $150. This consumer benefit helps almost 700,000 Covered California members and is funded by federal CSR payments. In 2018, this program is forecasted to provide almost $750,000,000 in assistance to help the neediest Californians lower their deductibles and co-payments.

Blue Shield is committed to serving the Covered California market. Without confirmed federal funding for the cost-sharing reduction program, many individuals may lose their health insurance coverage either because they cannot afford it or they cannot access it because other health plans may exit the market(s) they serve.

The appropriate and immediately needed solution is action by the federal government to commit to funding the CSR benefit through 2018. In the absence of that, your draft policy permits us to hold off on making a final rate decision until the last possible moment in the hope that the CSR benefit does get funded in 2018. This allows us to navigate uncertainty while giving Californians the best chance to experience the lowest possible rates next year.

Sincerely,

Paul Markovich

Paul Markovich
President and CEO, Blue Shield of California

CC: Diana Dooley, Chair Covered California Board

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June 12, 2017

The Honorable Diana Dooley
Chair, Board of the California Health Benefits Exchange
1601 Exposition Blvd
Sacramento, CA 95815

RE: Covered California Guidance Regarding 2018 Rate Submissions

Dear Madam Chair:

On behalf of Kaiser Permanente, I write to indicate our support for the policy guidance Covered CA issued to plans on June 6, 2017 to address uncertain federal funding for the cost share reduction (CSR) program during the 2018 plan year.

As you know, the CSR program requires plans to lower copayments and deductibles from standardized levels for low income individuals and families. The CSR subsidies eliminate the need for plans to finance those reductions through higher premiums for all enrollees. This is a vital benefit that makes health coverage purchased through Covered California affordable for the lowest income Californians. Your guidance directs carriers to submit alternative rates that would go into effect in the event CSR funding continues to be uncertain. Under these rates, carriers would cover their costs for continuing the CSR benefit.

While the approach described in the guidance is no one's preferred option, we believe it will preserve a stable health insurance market in California for 2018, and will increase the likelihood that health plans will continue to offer coverage through Covered California. Regrettably, in the absence of certainty regarding CSR program funding, it may be the only approach that does so.

Separately, we continue to encourage policymakers to reach a prompt resolution that allows payments for the CSR program to continue for the benefit of California consumers.

Sincerely,

Bill Wehrle

Bill Wehrle
Vice President, Health Insurance Exchanges

cc: Peter Lee, Executive Director, Covered California

June 13, 2017

Diana Dooley, Chairperson
Peter V. Lee, Executive Director
Covered California
1601 Exposition Blvd
Sacramento CA 95815

Dear Secretary Dooley and Mr. Lee:

The undersigned consumer groups write to express our support for steps set forth in the "Covered California: Supplemental Guidance on Rate Filing Instructions Related to the Cost-Sharing Reductions" dated June 6, 2017, with Appendix dated May 30, which we understand will be presented for action at the upcoming Board meeting on June 15, 2017. The steps in the Guidance are intended to ameliorate the hardship posed for consumers by the uncertainty about future payment of the cost-sharing reduction (CSR) subsidies created by the federal government.

The possibility that the Trump Administration might withhold cost-sharing reduction (CSR) payments – or that these payments could end as a result of the House of Representatives lawsuit or through federal legislative changes – threatens upheaval for low- and moderate-income enrollees and potential enrollees in Covered California, as well as for health plans and insurers. Modeling done for Covered California shows that if these payments cease to be made, it will require a nearly 17 percent increase in premiums for affected California plans to make up for the loss of direct payments.[1] Our organizations each continue to vigorously advocate to Congress and the Trump Administration that it is critical that CSR payments continue, but as the days tick by and rate filings come due, we know that a crisis of uncertainty is upon us and that uncertainty will translate into higher premiums.

The Department of Insurance, the Department of Managed Health Care, and Covered California all have taken the precautionary step of instructing the carriers to provide alternative rate filing

[1] Yin, Wesley and Domurat, Richard, Covered California paper January 2017, available at http://www.coveredca.com/news/pdfs/CoveredCA_Consequences_of_Terminating_CSR.pdf.

projections for 2018 for various scenarios, including no CSR payments. In other states where the 2018 filings are public already, the disparate rates are already apparent.[2] It is crucial to optimize market stability, ensure a level playing field of competing plans, and safeguard consumer access to affordable coverage in the event that CSR payments are halted.

We generally agree with the three parts of the staff recommendation which we understand will be presented to the Board on June 15 to:

- **Load the costs of the CSRs onto Silver QHP products.** Under existing law, CSRs are available to low-income consumers with incomes below 250% of the federal poverty level (about $30,000 for an individual) to help better afford copays and deductibles. They are required by federal law to be available to eligible individuals, whether the federal government makes the CSR payments to plans, and are only available to consumers who enroll in Silver tier product. For this reason alone it makes sense to load the cost of CSRs onto the premium for Silver products.

  While loading the CSR costs onto Silver products will increase the premiums on Silver QHP (and mirror, off-exchange) products significantly, that increase would not be felt by enrollees in Silver products who are eligible for advance premium tax credits (APTCs). The premium they pay is tied to a percentage of their income; the increased premiums will be offset for them by concomitant tax credit increases. Thus, the "subsidy-eligible population" will be kept whole. Moreover, the CSR costs would then not be spread to other metal tiers, keeping those tiers more affordable on and off the exchange than if the CSR costs were spread among them.

- **Provide relief for those not eligible for APTCs through a nearly identical, off-exchange product.** With CSR costs loaded onto Silver products, enrollees who are not APTC-eligible will suffer rate shock since they will not have the benefit of the offsetting tax credits. To provide a safe landing for these enrollees, the proposed rate filing instructions also require, as a contract term, that QHPs offer an additional product: an off-exchange, *nearly identical* Silver product without the CSR cost loaded into the Silver premium alone. The proposed difference in benefit design is truly de minimis: an additional $5 to ambulatory transportation.

  Thus, Covered California enrollees at 400% or more of the federal poverty level –of which we understand there are approximately 45,000 in Silver plans currently—would be able to stay in Silver products based on Covered California's standardized cost-sharing designs (with one small tweak) at a more affordable price. This maintains California's commitment to patient-centered benefit designs that have been shown to simplify consumer choice while promoting primary care. Under the proposal, Covered California and its partner plans, agents and assisters would actively encourage those Silver enrollees who are not APTC- eligible to move to the new product. This would provide them with far more affordable coverage, and thus encourage them to remain in the risk pool.

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[2] For example, the largest insurer in North Carolina recently announced its planned rate increase for 2018 of an average of 22.9 percent if the CSRs and the individual mandate cease; if they remain in place, the average premium increase would be 8.8 percent. Similarly, in Pennsylvania, the comparable average increases overall for the coming year are 36.5 percent without the CSRs and individual mandate versus 8.8 percent if they remain.

- **If certainty is not forthcoming from the federal government about payment of CSRs by this summer, go forward with rate projections assuming CSR payments will not be paid.** A final piece of the proposal, at a date to be determined by Covered California, if there is no greater certainty about payment of CSRs by the federal government is to allow rates to go through as if CSRs will not be paid. We hope this will not come to pass, but recognize that contingency planning is needed in this time of crisis to create a semblance of certainty for the marketplace and have systems ready in time for the next renewal period.

We note that there will be a good deal of work to be done on implementation, including intensive and careful multilingual outreach and education to help consumers navigate a very confusing situation. This includes a commitment by Covered California to develop easily understandable consumer materials translated into the Medi-Cal threshold languages and appropriate training for Customer Service Representatives, Certified Enrollment Counselors, agents and other enrollment assisters in order to:

- Actively outreach to the 300,000 Californians in the individual market who are today APTC-eligible, but who have not signed up with Covered California—which will be even more important if we end up in a world in which the CSR cost is loaded onto Silver QHPs and their premiums go up as a result.
- Clearly message to assist consumers in understanding their choices, particularly those consumers in Silver 73 or Silver 70 plans who may benefit from switching to Gold plans.
- Transition those consumers over 400% FPL to appropriate choices on or off-exchange.

We look forward to working with staff on these and other operational logistics should the Board accept the staff recommendation. Should the worst come to pass and CSR funding stop, we believe this creative solution would be beneficial to consumers, even if it guides some number off-exchange. We commend the staff's efforts to, once again, put California in the lead by taking proactive, creative steps to protect consumers and provide greater stability to the marketplace in the face of chaos elsewhere. We urge the Board to approve this proposal.

Sincerely,

Consumers Union
Health Access
California Pan-Ethnic Health Network
Western Center for Law and Poverty
Asian Americans Advancing Justice
California Immigrant Policy Center
Children Now
Disability Rights Education and Defense Fund
National Health Law Program
Project Inform
Community Health Councils

cc: Members of the Board

California Association of Health Plans

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June 14, 2017

Mr. Peter Lee
Executive Director
Covered California
1601 Exposition Blvd.
Sacramento, CA 95814

VIA ELECTRONIC MAIL:
Peter.Lee@covered.ca.gov

Re: 2018 Qualified Health Plan (QHP) Rate Filing Instructions

Dear Mr. Lee:

The California Association of Health Plans ("CAHP") represents 49 public and private health care service plans that collectively provide coverage to over 28 million Californians. We write today on behalf of the health plans that offer Qualified Health Plan (QHP) products through Covered California to provide support for the guidance that was recently released to QHPs regarding the 2018 rate filings.

While funding of the Cost Sharing Reduction (CSR) subsidies would clearly be our first choice, it appears that may not occur in time to meet the necessary operational, statutory, and contractual requirements to have rates in place for 2018. Therefore, it is important to have clear guidance on what is expected of QHPs in this time of uncertainty and to allow for as much time as possible to implement any decisions that may be made at the federal level in time to impact 2018 rates.

CAHP and its member plans appreciate that Covered California had to make some difficult decisions based on the current status of the CSRs. We support the efforts to provide as much clarity as possible for the QHPs and the consumers. We look forward to continuing to work collaboratively with you and your staff.

Sincerely,

Charles Bacchi
President & CEO

cc: Doug McKeever, Covered California
James DeBenedetti, Covered California
Diana Dooley, Covered California