

a million individuals across the country. For these reasons, we call on HHS to withdraw the proposed rule in its entirety.

The proposed rule would impose unnecessary and onerous burdens on insurers that would force them to drop abortion coverage in the marketplace – a result that would be contrary to congressional intent.

The proposed rule would impose burdensome and costly requirements on insurers with the goal of forcing them to drop abortion coverage. Specifically, the proposed rule would force insurers to allocate additional, significant administrative resources towards issuing and processing payments from multiple instruments from each subscriber, needlessly raising administrative and personnel costs.³ Issuers have repeatedly expressed their opposition to such requirements for these reasons. For example, America’s Health Insurance Plans has stated that it does “not support any requirements to itemize the cost of, or separately bill for specific benefits that are incorporated in a comprehensive benefit plan.”⁴ That is because such requirements go against standard practice in the insurance industry.

Given the costly and significant administrative burdens that the proposed rule would impose, many insurance companies could be forced to drop abortion coverage altogether. This appears to be the goal of the proposed rule. Just last year, HHS issued guidance reaffirming longstanding regulations implementing Section 1303, but this proposed rule is a complete reversal that would create a new, expensive, and purposely onerous framework for insurers that want to continue covering abortion in the marketplace. The fact that HHS is proposing to give insurers such a short time period to implement the new regime is further evidence that the proposed rule is meant to coerce insurers into dropping abortion coverage. If finalized, this rule would further stigmatize abortion, eliminate insurance coverage of abortion and restrict access to legal and safe abortions.

Furthermore, the proposed rule violates congressional intent. Congress passed the Section 1303 special rules after rejecting more extreme alternatives that would have eliminated abortion coverage in the marketplace.⁵ Instead, Section 1303 makes clear that – absent a state law to the contrary – insurers offering marketplace coverage can decide for themselves whether to cover abortion. But the proposed rule’s onerous requirements will effectively take that decision away from issuers. By forcing insurers to drop coverage and eliminating abortion coverage in many parts of the country, the proposed rule would violate congressional intent regarding Section 1303.

The proposed rule will impose significant costs on consumers and lead to confusion, which could potentially jeopardize individual’s health coverage.

The proposed rule, if finalized, would impose significant costs to consumers. HHS estimates that the proposed rule will cost consumers more than \$30 million, but the actual cost would likely be

³ While the proposed rule contemplates some additional costs for insurers and consumers, the Department of Health and Human Services, “Proposed Rule: Health Insurance Marketplace Coverage of Abortion,” 81 Fed. Reg. 168,982 (Nov. 17, 2016), <https://www.federalregister.gov/documents/2016/11/17/2016-22474/health-insurance-marketplace-coverage-of-abortion>.

much higher. The administration failed to account for several costs, including the cost of consumer learning regarding the proposed rule's new billing and payment requirements. Moreover, HHS fails to account for the costs insurers will likely pass onto consumers as a result of implementing these burdensome requirements. As multiple issuers have indicated, such

As discussed above, the proposed rule could result in insurers being forced to drop abortion coverage in marketplaces across the country due to the significant burdens of complying with the