BY ELECTRONIC DELIVERY

Administrator Chiquita Brooks-LaSure
Centers for Medicare & Medicaid Services (CMS),
Department of Health and Human Services,
P.O. Box 8016
Baltimore, MD 21244-8016

RE: Comments on Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2025; CMS-9895-P

Dear Administrator Brooks-LaSure,

Thank you for the opportunity to comment on the 2025 Proposed Notice of Benefit and Payment Parameters. There are a number of proposals that we are happy to support, and our input for your deliberation is in the following categories.

45 CFR Part 155.220 and 221 – Adding and Amending Language To Ensure Web-Brokers Operating in State Exchanges Meet Certain Standards Applicable in the FFEs and SBE–FPs.

We support consumer safeguards to ensure access to consistent, reliable information from web-brokers and direct enrollment entities. However, we encourage CMS to retain state flexibility in determining how to provide these consumer safeguards, both in order to ensure that our customers do not experience gaps in access to enrollment assistance and to ensure that those accessing enrollment assistance through a web broker do not feel deterred from utilizing that assistance.

45 CFR Part 155.302(a)(1) – Requirement for Centralized Exchange Eligibility and Enrollment Platform on the Exchange's Website.

We appreciate the clarity provided by CMS by codifying the role of exchanges as solely responsible for eligibility determinations, as this is an important protection for exchanges and the general public. As eligibility determiners, Exchanges have robust

processes and tools available to the public to help applicants and enrollees understand their eligibility, appeal determinations they believe to be erroneous, or otherwise resolve eligibility and enrollment issues. We support this step to codify the important role of Exchanges.

45 CFR Part 155.305(f)(4) – Failure to Reconcile (FTR) Process

Connect for Health Colorado supports in part and opposes in part the proposed change to require Exchanges to provide notice to enrollees who fail to file and reconcile during the first year that a failure is noted, even if enrollees will not lose eligibility for APTC unless they fail to file and reconcile for two consecutive years. As noted in the commentary surrounding the proposed change, requirements around protection of Federal Tax Information (FTI) mean that these notices either: (1) contain broad, general language regarding multiple possible issues or, (2) are constrained by such stringent requirements that they are "complex and untenable" for Exchanges to produce.

While the requirement to file and reconcile is an important guardrail for the integrity of the Premium Tax Credit program, the rigid requirements around how these notices are generated and phrased makes them very difficult to produce and understand. Enrollees are better served by clear and timely information that is available in multiple formats, rather than being constrained to specific notices with vague information. We support flexibility for Exchanges to use the tools and systems available to them to remind enrollees about these important requirements. Taking clear and multi-layered approaches are much more likely to result in enrollees being able to understand the requirements and take the appropriate action.

Connect for Health Colorado takes multiple steps to highlight the importance of filing and reconciling via various mediums throughout the benefit year. Monthly Customer Newsletters are sent to enrollees via email; customers who interact with the Connect for Health Colorado website see user-friendly, digestible information about the requirement; those who apply see clear language on the importance of filing and reconciling and attest that they understand the requirement when they file an application; and various social media posts throughout the year highlight the importance of filing and reconciling. These reminders are heightened around tax filing deadlines, providing clear and timely information. Taken together, these combined approaches serve to better educate enrollees on the applicable requirements and drive action.

Overall, while we applaud efforts to support compliance with the filing and reconciling requirement under section 36B(f) of the Code and its implementing regulations, we feel that both Exchanges and enrollees are better served by flexible real time education on

these requirements for all APTC recipients, rather than mandatory noticing that is difficult for enrollees to understand and burdensome for Exchanges to produce.

45 CFR Part 155.315(e) – Verification Process Related to Eligibility for Enrollment in a QHP Through the Exchange (45 CFR 155.315(e))

Connect for Health Colorado supports the proposal to permit Exchanges to accept consumer attestation of incarceration status without further verification or utilize an HHS-approved data source.

While Connect for Health Colorado is already in compliance with this proposal by using an HHS-approved data source, we think that the proposed regulation will reduce the verification burden on other Exchanges and consumers by allowing for allowing for Exchange flexibility and reducing the need for additional, sometimes difficult to obtain, documentation. Connect for Health Colorado commends CMS for easing administrative burden on both consumers and Exchanges. We also support the state flexibility allowed by this proposal.

45 CFR Part 155.330(d) – Eligibility Redetermination During a Benefit Year

Connect for Health Colorado supports in part and opposes in part the proposed changes surrounding eligibility redeterminations during a benefit year. We applaud efforts to grant the Secretary authority to temporarily suspend periodic data matching (PDM) requirements during circumstances where data needed is unavailable. As evidenced by the COVID-19 Public Health Emergency, this flexibility can help prevent improper terminations when continuity of coverage is especially important for enrollees.

Connect for Health Colorado opposes changes to define "periodically" as twice per year for Death PDM. Existing types of biannual periodic data matching are likely to protect program integrity by ensuring that enrollees are not simultaneously enrolled in Medicare, Medicaid, or CHP+, which is relatively likely for a larger percentage of enrollees due to churn between programs. However, periodic data matching for death is distinct from these other types of data matching because it is much less likely to identify inappropriate enrollments and is unlikely to cause sufficient program integrity benefit to outweigh the cost.

Connect for Health Colorado has made substantial changes to improve its platform, modernize systems, ease customer experience, and implement various state-level policy changes. These efforts have taken considerable resources to accomplish, and continued improvements and upgrades have already been planned several years into the future. As we plan to make the best use of finite resources, we are focused on the most efficient and effective approaches to program integrity. In the absence of data

demonstrating the comparative cost and benefit of increased death PDM, we oppose changes to these requirements and caution that these changes limit our ability to meet other goals, including compliance efforts that more clearly support program integrity as a whole.

45 CFR Part 155.335(j) – Incorporation of Catastrophic Coverage Into the Auto Re-Enrollment Hierarchy.

We encourage CMS to provide flexibility to states regarding changes to re-enrollment hierarchies. Our current auto-enrollment logic excludes customers that are enrolled in catastrophic plans who will no longer be eligible for catastrophic coverage. These customers instead receive notices and are encouraged to shop for coverage that is the best fit for their unique circumstances. We leverage a variety of decision support tools to help customers find the best plan for their needs informed by customer and stakeholder feedback. Therefore we strongly encourage state flexibility both in terms of choosing to implement these changes and regarding the timeline of implementation.

45 CFR Part 155.410 – Initial and Annual Open Enrollment Periods.

While Connect for Health Colorado currently follows the Open Enrollment timeframe set out in the proposed rule, we are concerned about the loss of flexibility for states to determine the timeframes that best suit their specific context. As states assess new programs, feedback from the Assister and Broker community, issuer needs, and the experiences of enrollees, we are concerned that the loss of flexibility hinders our ability to tailor our experience to our stakeholders.

45 CFR Part 155.420 – Special Enrollment Period Changes.

Connect for Health Colorado supports the proposals to align coverage effective dates across all marketplaces and revise the parameters around the availability of the special enrollment period (SEP) for APTC-eligible individuals with household income at or below 150 percent of the Federal Poverty Level.

Aligning effective dates for Special Enrollment Periods will streamline the customer experience, reduce confusion, and prevent coverage gaps. For example, consumers moving between states will no longer face the possibility of an effective date for an SEP in one state being later than the effective date for the same SEP in another state.

Connect for Health Colorado already follows these accelerated effective dates, so this will not have an operational impact on our Exchange. Other states may need to add functionality, but we are unable to speak to the operational burden that may be created

for other states. As such, we would encourage flexibility on implementation timelines so that all states have sufficient time to appropriately implement this change.

Connect for Health Colorado also supports the proposed removal of the limitation that the 150% FPL SEP only be available when the applicable tax percentage is set to zero. Connect for Health Colorado continues to pursue means of making health coverage more accessible and affordable for our most vulnerable enrollees.

45 CFR Part 155.1050 – Network Adequacy.

Connect for Health Colorado's mission is to provide individuals and small employers purchasing health insurance with access, affordability, and choice. An integral component to choice, as shown by our annual customer survey, is the ability to choose plans that provide access to certain providers via sufficient networks.

While we applaud efforts to improve network adequacy, we are concerned by the imposition of these requirements on Exchanges on subject matter that has been historically regulated by our partners at the Colorado Division of Insurance. We also note that this is true in many states with State Based Marketplaces.

We would also like to highlight the substantial work already done by the Colorado Division of Insurance in regulating network adequacy, which is context specific to Colorado as a semi-mountainous state with specific hurdles regarding rural and mountainous access to care. We encourage CMS to provide flexibility for states to adhere to their existing division of responsibility and regulatory authority between Exchanges and Divisions of Insurance, and to determine the best options for a state's specific context in addressing network adequacy concerns.

45 CFR Part 156.201 – Standardized Plan Options

In 2021 Colorado passed HB21-1232, which created standardized plans called "Colorado Option" plans. The Connect for Health Colorado Board of Directors voted to support the legislation that created the Colorado Option plans to advance the policy goal of creating better plan choice, making it easier for Coloradans to find the right coverage for their needs— one of our strategic goals. Part of Connect for Health Colorado's 2021 testimony in support of the bill centered around increasing meaningful choice, attaining and retaining health insurance, encouraging competition, and promoting affordability.

Plan comparison and selection can be challenging for customers given the complexity of health insurance and financial help. This is an ongoing challenge that we see reflected in our customer research, our annual surveys, and our ongoing stakeholder conversations. We will continue to conduct customer research and work closely with

stakeholders to enhance decision support for customers enrolling in the individual market. This will remain an area of focus for the organization in the coming years. We will be interested to continue learning from experience of the Federal Marketplace when implementing new standardized plan rules, and from other states that have made similar changes.

Thank you for your consideration of these comments.

Sincerely,

Kevin Patterson
Chief Executive Officer
Colorado Health Benefit Exchange, d.b.a. Connect for Health Colorado