



## NY State of Health

### **Comments on the U.S. Health and Human Services Interim Final Rule providing Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency, May 8, 2020 (Docket No.:CMS-5531-IFC; RIN 0938-AU32)**

NY State of Health submits the following comment on the interim final rule titled, "Medicare and Medicaid Programs, Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program."

In response to the COVID-19 public health emergency, the interim final rule revises 45 CFR 156.280(e)(2)(ii) to delay implementation of the "separate billing" requirement for sixty days from the effective date finalized in the final rule titled, "Patient Protection and Affordable Care Act; Exchange Program Integrity." This requires Qualified Health Plan (QHP) issuers to send each QHP policy holder two separate bills each month: one bill for premium and a second bill for premium attributable to non-Hyde abortion services. QHP issuers must now comply with the separate billing policy beginning on or before the issuer's first billing cycle following August 26, 2020. 85 Fed. Reg. 27599.

NY State of Health urges that the separate billing rule at 45 CFR 156.280(e)(2) be deferred indefinitely. As we have commented previously, the Rule provides no evidence of noncompliance with section 1303 of the Affordable Care Act [Prohibition on Use of Federal Funds], yet contains onerous new billing requirements. Imposition of such requirements during a public health crisis is especially unjustified. The requirement to issue two separate bills for a single month of coverage will require QHP issuers to implement costly administrative and IT system changes to issue millions of additional bills (1.9 million additional bills per year for the nearly 160,000 QHP enrollees who receive tax credits in New York), increasing issuer costs which will be passed to consumers through increased premium.

NY State of Health expects the implementation of this rule will cause significant consumer confusion and generate increased call volume to our Customer Service center in a period when NY State of Health is prioritizing resources to respond to the COVID-19 public health emergency. NY State of Health anticipates the Customer Service center will receive an increased volume of calls from consumers with questions regarding the sudden receipt of two separate bills for the same month, the requirement to provide two separate payments for one month, and the consequences for failing to pay one of the two bills, or failing to submit their payment in two separate payment transactions. NY State of Health anticipates that it will incur approximately \$600,000 in additional Customer Service center costs due to this increased call



volume, which would be better spent to support public health during the COVID-19 public health emergency.

The public health emergency has underscored the importance of consumer access to affordable health insurance coverage. NY State of Health implemented a COVID-19 related exceptional circumstances special enrollment period to provide consumers with the opportunity to apply for and enroll in the coverage for which they are eligible. In a health emergency, QHP issuers should be focusing on supporting the coverage and health care needs of enrollees as opposed to costly and burdensome administrative changes to address an unsubstantiated compliance issue.

In light of the COVID-19 public health emergency, and for the reasons stated above, NY State of Health urges the Centers for Medicare & Medicaid Services to postpone the implementation of the separate billing requirement indefinitely, to allow issuers and Exchanges to devote their resources to maintaining consumer coverage in support of public health and safety.