June 6, 2022

Charles P. Rettig
Commissioner
Internal Revenue Service
Treasury Department
Attention: REG-114339-21
Room 5203, P.O. Box 7604
Ben Franklin Station, Washington, DC 20044

RE: RIN 1545–BQ16 Affordability of Employer Coverage for Family Members of Employees

Dear Commissioner Rettig:

United States of Care is pleased to submit the following comments to the Internal Revenue Service regarding this proposed rule to address the affordability of employer coverage for the family members of employees.

United States of Care (USofCare) is a non-partisan non-profit working to ensure everyone has access to quality, affordable health care regardless of health status, social need, or income. We drive change at the state and federal level, in partnership with everyday people, business leaders, health care innovators, fellow advocates, and policymakers. Together, we advocate for new solutions to tackle our shared health care challenges — solutions that people of every demographic tell us will bring them peace of mind and make a positive impact on their lives. After listening to people tell us about their needs for their health care, USofCare recently released a set of twelve concrete and achievable aims to help us build a fairer system.

We know that people want a system in which their care is **affordable**, their **coverage is dependable**, their care is **personalized,** and the system is **understandable**. Yet, when we talk to people, we learn that they struggle to secure and retain dependable coverage that allows them to live the lives they want to lead. Over two years of research, people told us they wanted policies that would provide security and freedom in their health care coverage as life changes. Promoting access to that kind of dependable coverage means **allowing people to use tax credits to get coverage outside of their employer** if their employer coverage is too expensive, doesn't meet their needs, **or doesn't extend to family members.** In our research, 78% of people supported this approach, including 84% of Democrats, 72% of Independents, and 73% of Republicans. We commend the IRS for issuing this proposed rule, which strongly aligns with this broadly supported solution included in our United Solutions for Care.

Advancing Access to Dependable Coverage for Families

We strongly support the proposed updates to existing regulations related to the interpretation of access to affordable employer-sponsored insurance (ESI) for family dependents of a covered employee. Under this new interpretation, the employee's total cost of ESI for themselves and their family would be considered in determining eligibility for marketplace premiums and cost-sharing assistance, versus the determination being based solely on the cost of the employee's share of the cost of ESI. It is estimated that 5 million people currently face barriers to accessing affordable, subsidized marketplace coverage because of this interpretation, often referred to as the "Family Glitch." Lower-income families and children will particularly benefit from this new interpretation with new access to subsidized Marketplace coverage and cost-sharing assistance. In fact, it is estimated that, if this rule was finalized, it would most directly impact individuals who currently fall in the Family Glitch, including about 2.2 million dependent children that do not have access to affordable coverage options. Currently, the majority of families that fall in the Family Glitch enroll in ESI, even with the requirement to pay high premiums.

The Biden Administration estimates that nearly 1 million people will pay less for health insurance and 200,000 uninsured individuals will gain coverage under this proposal, as it will remove affordability barriers by broadening eligibility for subsidized Marketplace coverage. Additionally, small business employees and their families are likely to benefit from this new interpretation. Families with workers in the service sector and the agriculture, mining, or construction industries are most likely to benefit from this policy change, as these workers are least likely to have an affordable offer of family coverage. This proposal would promote access to a more affordable coverage option for millions of families and decrease the burden of expensive ESI out-of-pocket costs.

Potential Implications for the Marketplace

This proposed fix to the Family Glitch not only supports access to affordable coverage for the family members of workers that currently face barriers to accessing affordable employer-sponsored coverage. Because dependents of workers are often young and healthy, they generally utilize fewer health care services and generate lower spending. Covering family dependents on the Marketplace could improve the health of the marketplace insurance risk pool. The Urban Institute estimates that premiums in the individual market will decrease by about 1% for all enrollees. It will also be important to consider the implications for families that may receive coverage from multiple sources. For example, a worker may continue to receive affordable ESI coverage, while their dependent family members may receive newly subsidized marketplace coverage. It will be important for the Administration to continue to invest in adequate navigation services to support families with multiple coverage sources.

Implications for States: Promoting Sustainable Access to Affordable Coverage

If this new interpretation of affordability of family coverage is finalized, the rule would take effect for the 2023 plan year, presenting a relatively short implementation timeline for states and the marketplace. We encourage the Administration to consider the implications of this revised definition of affordable coverage and the introduction of additional covered individuals who will be eligible for marketplace subsidies. For example, States will also need to consider the new rules in developing or updating actuarial analyses for section 1332 State Innovation Waivers. There will likely be an impact on states leveraging federal pass-through funding under 1332 waivers, mostly through reinsurance programs, by modifying who is eligible for advanced premium tax credits. Additionally, there may be implications for states exploring other innovative opportunities, such as public health insurance options, that enhance affordable coverage options by leveraging 1332 federal pass-through funding. We encourage the Administration to consider these potential implications and, if necessary, identify a plan to mitigate potential harm to accessing affordable coverage for individuals.

As we look toward the 2023 open enrollment season, it will be imperative to consider the implications of additional impending affordability challenges, including the anticipated end of the COVID-19 Public Health Emergency and the end of the Medicaid continuous coverage requirement, which may result in a number of individuals previously covered under Medicaid to turn to the marketplace for coverage. Additionally, it will be important to consider the fate of the enhanced subsidies under the American Rescue Plan Act that are currently set to expire at the end of 2022. If the enhanced subsidies are not extended, approximately 13.3 million people would face significant premium increases or experience coverage losses. 3.3 million of these people would become uninsured and many more would experience a 50% increase in premiums. We encourage the Administration to work with Congress to support continuity and certainty for states as they work to develop 2023 plan options and prioritize affordability for all individuals covered under marketplace plans.

Looking Forward

The proposed policy will bring needed relief to people, but more can be done to better understand what "affordable" care means for people beyond this policy. While lower premiums help people afford coverage, there are still serious challenges people face affording out-of-pocket costs, leaving some to delay or forgo care. The Administration can look to states like Connecticut and Oregon that have conducted analyses and delved into the impact health care costs have on household budgets and other needs, such as housing, food, and transportation. We encourage the federal government to take similar steps so policies aimed at improving affordability can be truly aligned with people's needs.

We appreciate the opportunity to provide comments on this revised interpretation of what is considered “affordable” ESI and think this is a positive and important step forward. Access to affordable health care coverage supports access to necessary health care services for families and we commend the Administration for working to advance access to affordable, dependable coverage through life’s changes. Please consider our team at United States of Care a resource and please do not hesitate to reach out to Rachel Bonesteel, Policy Manager, at rbonesteel@usofcare.org with questions regarding these comments.

Natalie Davis
Co-Founder and Chief Executive Officer
United States of Care