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March 6, 2024

Richard L. Revesz
Administrator, Office of Information and Regulatory Affairs
U.S. Office of Management and Budget
Washington, DC 20503

RE: Cost-Benefit Analysis for CMS-9904

Dear Administrator Revesz:

I am the CEO of Proximal Health, Inc. an early stage fixed-indemnity insurer. We design supplemental fixed-indemnity benefits to accomplish two goals: we help employees find value-based providers for hospitalizations and specified illnesses, and we help employees afford Section 213 expenses that are not covered by their medical plan. During the public comment period, we provided detailed public comments to the Departments on the proposed rule. After the public comment period closed, we analyzed the data supplied by other commentors.

EXECUTIVE SUMMARY

Using the data supplied in the 15,000 public comments, this letter makes the following points:

1. CMS-9904 impacts two distinct health insurance markets: short-term limited-duration health insurance (STLDI) and supplemental fixed-indemnity health insurance (SFI).
2. CMS-9904 contains a single CBA that relies on the benefits derived from STLDI regulations to subsidize the costs of SFI regulations.
3. Based on guidance in Circular A-4, SFI should receive a separate standalone CBA in order to eliminate this cross-subsidy.
4. On a standalone basis, the SFI regulations have negative net benefits of $1B per year.
5. A "performance standards" approach to SFI regulation would have positive net benefits.

Our analysis of the public comments affords OIRA and the Departments with an opportunity to clarify and emphasize the requirements of the recently revised and updated Circular A-4.

SOURCES

In developing the attached analysis and CBA, we relied on:

- The original CBA in CMS-9904-P (see Federal Register)
- The 15,000 public comments on CMS-9904-P (see regulations.gov)
- Executive Orders 12866, 13563, and 14094
- OMB Circular A-4 regarding the development of CBAs (see 2003 and 2023 versions)

In developing the CBA, we did not rely on or incorporate public comments that raised questions regarding statutory authority. For this analysis, we assume the Departments have the authority to make the proposed changes and we focus only on the costs and benefit of those changes.

FINDINGS AND COST-BENEFIT ANALYSIS

Section 1: CMS-9904 impacts two unrelated health insurance markets: short-term limited-duration health insurance (STLDI) and supplemental fixed-indemnity health insurance (SFI).

The Departments requested data from stakeholders in order to address gaps and uncertainties:

- "As noted throughout this preamble, due to a lack of data and information, there are several areas of uncertainty regarding the potential impacts of these proposed rules. The Departments are unable to forecast how all of the provisions of these proposed rules would affect enrollment . . . as the Departments are uncertain how many individuals are currently enrolled." 559
- "The Departments seek comments on the number of entities that would be affected." 535

In over 15,000 public comments, stakeholders provided both statistical and anecdotal data in response to the Departments' requests. The first conclusion that can be drawn from this data is that STLDI and SFI are distinct non-overlapping markets with distinct groups of consumers and with distinct groups of affected entities.

Table 1: CMS-9904 Covers Two Distinct and Non-Overlapping Health Insurance Markets	
STLDI Short-Term Limited-Duration Insurance	**SFI** Supplemental Health Insurance
• Substitute for ACA coverage • 173,000 policies in force 477 • 28 affected entities 531 • ~0% cross-enrollment in ACA • ~0% distributed as an employer benefit	• Complement to ACA coverage • >25,404,144 policies in force (150x)[1] • >96,274 affected entities (4,000x)[2] • ~100% cross-enrollment in ACA coverage[3] • ~80% distributed as an employer benefit[4] • 92% consumer satisfaction rate[5] • .02% consumer complaint rate[6]

Section 2 and 3: The proposed SFI regulations require a separate standalone CBA.

CMS-9904 contains a single CBA that relies on the benefits derived from STLDI provisions to subsidize the costs of SFI provisions. SFI requires a separate standalone CBA for four reasons:

- First, the SFI market is distinct from the STLDI market (see Table 1).
- Second, the SFI provisions are distinct from the STLDI provisions (see Table 2).
- Third, severability language will allow SFI and STLDI provisions to act separately. 460
- Fourth, Circular A-4 advises "If a regulation includes a number of distinct provisions, you should analyze the benefits and costs of alternatives to key individual provisions separately."

Table 2: CMS-9904 Contains Two Distinct and Non-Overlapping Sets of Proposed Provisions	
STLDI Provisions Short-Term Limited-Duration Insurance	**SFI Provisions** Supplemental Health Insurance
• Redefine "short-term" • Redefine "limited-duration" • Require an STLDI-specific disclosure notice	• Redefine "fixed-indemnity" payment • Redefine "non-coordination" of benefits • Require an SFI-specific disclosure notice • Increase taxes on SFI benefits

Section 4: The proposed SFI regulations have negative net benefits of $1B per year.
When developing the original CBA, the Departments lacked data needed to model enrollment changes and to develop quantified benefits and costs. 559 Helpfully, the public comments provided SFI-specific enrollment data, market prices, and marginal values. We used this data to build an SFI-specific CBA which shows quantified benefits of $47mm per year and quantified costs of $1,104mm per year for net negative benefits of $1,057mm per year (Table 4).

To build our SFI-specific CBA, we first considered the range of costing methodologies described in Circular A-4. Because the public comments included market price data, we concluded that a Direct Market Price (revealed preference) methodology was the most appropriate choice.

Direct Market Price analysis. Circular A-4 states "Market prices provide rich data for estimating benefits and costs . . . economists ordinarily consider market prices as the most accurate measure of the marginal value of goods and services to society. This is most likely to be the case for goods and services exchanged in competitive markets with no externalities or other market failure."

The public comments provide direct evidence that the SFI market is competitive and that it functions without externalities or other failures. The public comments show that 80% of the SFI market is mediated by employers and that all consumers benefit from the salutary effect that employers have on the market. On an annual basis, employers retain consultants to help allocate dollars across benefit classes (e.g., medical, dental, retirement) and to bid these benefits out to multiple carriers.[7] During open enrollment, employees allocate their own dollars across benefit classes and risk mitigation strategies.[8] For health benefits, one of the risks that employees seek to mitigate is their exposure to the deductibles and copays that aren't covered by their comprehensive medical plan and that average $4,355 per year.[9] Employees can mitigate these risks with FSAs (but only for predictable expenses), HSAs (but only if they have sufficient income to save), or SFIs (which transfer a portion of the deductible risk to the SFI carrier).

Given the competitiveness of the market, the consumer protections described above, and direct feedback from consumers contained in the public comments,[10] we have strong evidence that the dollars employers and consumers choose to spend on SFI benefits reflect their informed revealed preferences about the allocation of dollars across benefit classes and across risk mitigation strategies. Further, we have strong evidence from the public comments that most employers and most consumers wouldn't be served as well by alternative allocations.[11]

In order to quantify benefits, we take the segment of consumers who are dissatisfied with SFI and we measure the dollars of premium these consumers will free up under the proposed rules. In order to quantify costs, we take the segment of consumers who are satisfied with SFI and we measure the dollars of risk-mitigation that these consumers will lose under the proposed rules.

In addition we model the costs imposed on employers, government, and other affected entities.

Table 4: Standalone CBA for the Proposed SFI Regulations				
Benefits ($/year):	Estimate	Year Dollar	Discount Rate	Period Covered
163,271 fewer dissatisfied enrollees (annual)	$47,022,106	2024	2 percent	2025 – 2029
Quantified: • 2% of current enrollees (163,271) report that they are not satisfied with their coverage – new disclosure notices could cause these enrollees to deploy $288 in premiums for other uses (Appendix Table 1)				
Costs ($/year):	Estimate	Year Dollar	Discount Rate	Period Covered
250 regulators spend 4 hours on regulatory review (one-time)	$14,355	2024	2 percent	2025 – 2029
50 States update statutes/administrative codes (one-time)	$229,686	2024	2 percent	2025 – 2029
96,274 employers revise SFI benefits (one-time)	$5,528,193	2024	2 percent	2025 – 2029
24.2mm enrollees experience unfavorable tax change (annual)	$265,000,000	2024	2 percent	2025 – 2029
7.5mm enrollees experience unfavorable benefit change (annual)	$832,761,490	2024	2 percent	2025 – 2029
Total quantified costs (annual)	$1,103,533,724	2024	2 percent	2025 – 2029
Quantified: • 250 regulators and other interested parties spend 4 hours at $76.20 per hour on regulatory review 572 • 50 States incorporate redefined terms into State statutes and administrative codes (assumes 8 weeks of staff time costed as per 572) • 96,274 employers review their SFI offerings and cancel or revise offerings (assumes 4 hours per employer costed as per 572) • 24,233,842 enrollees who are satisfied with their coverage pay $265,000,000 in new taxes due to new tax provisions (Appendix Table 3) • 7,510,475 enrollees who are satisfied with their coverage lose 77%[12] of benefit payment due to new definition provisions				
Non-Quantified: • Violates the President's pledge to not raise taxes on the middle class • Implements mandatory product standards where voluntary standards or disclosures could better accomplish the same goal • Imposes new recordkeeping requirements on at least 10 or more employers requiring PRA clearance from OMB				

Why we excluded second order effects. The original CBA contained costs, benefits, and transfers from increased ACA enrollment. We excluded these second order effects for two reasons.

- The public comments show that only a very small (and unquantified) number of people use SFI as a substitute for ACA.
- The second order effects go in both directions, i.e., the small number of people who pick up ACA coverage and reduce medical debt are offset by a larger number of people who lose SFI coverage and increase medical debt or defer care because of affordability.[13,14]

Why we included unfavorable tax changes as a quantified cost. The MOA exempts Treasury regulations from OIRA review when they are "pursuant to Title 26" but in the case of CMS-9904:

- Treasury proposes to depart from its past practices even though the relevant section of Title 26 has not changed since 1954 and SFI products have not changed in decades.
- Treasury justifies this departure using Titles 29 and 45: "clarifying the tax treatment of benefit payments. . . should serve to promote the purchase of comprehensive coverage."
- Treasury did not evaluate the tax's impact on small employers as required by §7805.

Non-quantified costs. The non-quantified costs of the proposed SFI regulations include:

- *The President's Pledge.* The President has pledged that "nobody earning less than $400,000 a year will pay an additional penny in taxes."[15] CMS-9904 violates this pledge because the average worker who purchases SFI earns $60,000 per year.[16]
- *Certain Types of Economic Regulation.* Per A-4 "it is particularly difficult to demonstrate positive net benefits for mandatory uniform quality standards if the potential problem can be adequately dealt with through voluntary standards or by disclosing information."
- *Paperwork Reduction Act of 1995.*[17] Many employers, and certainly more than 10, will continue to offer SFI benefits. In order to add SFI benefits to W2 income, employers will need permission from employees to request personal information about SFI benefit payments from carriers. Such requests, reports, and retention policies don't exist and are not customary practice for employers, employees, carriers, or payroll processors.

Section 5: A "performance standards" approach to SFI regulation has positive net benefits. Executive Order 12866 requires that "in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits." Circular A-4 describes ten alternative regulatory approaches. One of these is "performance standards."

> *''Performance standards express requirements in terms of outcomes rather than specifying the means to those ends. When outcomes are straightforward to measure . . . performance standards may be superior to engineering or design standards, because they give the regulated parties the flexibility to achieve regulatory objectives in the most cost-effective way. As a result, performance standards are likely to allow for innovation that may ultimately result in greater net benefits."*

In CMS-9904 the Departments articulate what is in essence a performance standard:

> *"These proposed rules would encourage enrollment in comprehensive coverage and lower the risk that . . . . [SFI] benefits coverage are viewed or marketed as a substitute for comprehensive coverage."* 492

This performance standard could be expressed as a series of straightforward measures and then monitored for potential future regulatory action. For example:

- The disclosures on SFI products should convey that SFI coverage isn't comprehensive and that consumers should go to healthcare.gov to understand their options.
- The disclosures on SFI products should convey that excess indemnification is taxable.
- The SFI satisfaction rate should remain high and the complaint rate should remain low.
- The cross-enrollment rate between SFI and comprehensive coverage should be higher than the market-wide enrollment rate in comprehensive coverage.
- States should have a process to detect and stop misleading marketing and tax schemes.

This performance standard approach would utilize and strengthen existing market mechanisms:

- The NAIC already serves as a hub for developing model disclosures, developing model regulations, collecting performance data, and encouraging innovation across States.[18]
- State regulators already are collaborating with federal agencies such as the FTC, FCC, and Justice Department to identify and stop marketers who misrepresent SFI products.[19]

Table 5: "Performance Standards" CBA for SFI

Benefits ($/year):	Estimate	Year Dollar	Discount Rate	Period Covered
163,271 fewer dissatisfied enrollees (annual)	$47,022,106	2024	2 percent	2025 – 2029
Quantified: • 2% of current enrollees (163,271) report that they are not satisfied with their coverage – new disclosure notices could cause these enrollees to deploy $288 in premiums for other uses (Appendix Table 1)				
Costs ($/year):	Estimate	Year Dollar	Discount Rate	Period Covered
250 regulators spend 4 hours on regulatory review (one-time)	$14,355	2024	2 percent	2025 – 2029
50 States adopt improved disclosure language (one-time)	$114,843	2024	2 percent	2025 – 2029
Total quantified costs (annual)	$129,198	2024	2 percent	2025 – 2029
Quantified: • 250 regulators and other interested parties spend 4 hours at $76.20 per hour on regulatory review 572 • 50 States adopt improved disclosure language and participate in NAIC workgroups (assumes 4 weeks of staff time costed as per 572)				

TREATMENT OF UNCERTAINTY

Circular A-4 advises that a high-quality cost-benefit analysis should include "a numerical sensitivity analysis to examine how the results of your analysis vary with plausible changes in assumptions, choices of input data, valuation metrics, and alternative analytical approaches."

In Table 6 below we summarize our sensitivity analysis. As Table 6 shows, the range of annual net benefits (ignoring one-time costs) is negative $1.1 B to negative $2.5B. Given this range we believe that the standalone CBA we developed in Table 4 is appropriate, balanced, and likely errs on the side of underestimating costs.

Table 6: Treatment of Uncertainty

Benefits ($/year):	Base Estimate	Higher Estimate	Discount Rate	Period Covered
163,271 fewer dissatisfied enrollees (annual)	$47,022,106	$100,819,966	2 percent	2025 – 2029
See Appendix Table 2 for development of higher estimate				
Costs ($/year):	Base Estimate	Higher Estimate	Discount Rate	Period Covered
24.2mm enrollees experience unfavorable tax change (annual)	$265,000,000	$1,115,000,000	2 percent	2025 – 2029
7.5mm enrollees experience unfavorable benefit change (annual)	$832,761,490	$1,520,432,616	2 percent	2025 – 2029
Total quantified costs (annual)	$1,097,761,490	$2,635,432,616	2 percent	2025 – 2029
See Appendix Table 4 for development of higher estimate				
Net Benefits ($/year):	$1,050,739,384	$2,534,612,650	2 percent	2025 – 2029

Finally, we consider the potential uncertainty and potential costs associated with challenges to the proposed rule. For the purposes of our analysis above, we assumed the Departments have the authority to make the proposed changes and we focused only on the costs and benefit of those changes. But the public comments show that the there is a high probability that the proposed rule will face one or more challenges in court and a significant probability that those challenges may be at least partially successful. Circular A-4 does not provide guidance on how to evaluate litigation risks, costs, or benefits. For OIRA's consideration we simply provide the following summary of data provided in the public comments:

- 40 or more organizations have documented specific legal grounds to challenge SFI provisions contained in the proposed rule. 20 or more of these organizations have standing to bring suit.
- Legal grounds for challenge include lack of statutory authority, failure to follow rule making procedures (lack of cost/benefit analysis, lack of alternatives, lack of narrow tailoring, lack of fact-base), reliance interests, contract interference, and federalism.
- Legal grounds for challenge have been articulated for all five SFI provisions including redefinition of "fixed," redefinition of "non-coordinated," new notice requirements, new taxes, and applicability dates.
- The Central United precedent is directly-relevant and highly-unfavorable to the Departments.[20]
- There is no congressional catalyst for the provisions. The underlying statutes, precedents, and practices are seventy years old (with respect to tax) and twenty-eight years old (with respect to benefit definitions).
- A legal challenge to some or all of the SFI provisions would have direct costs for both the Departments and the petitioners and indirect costs for employers and employees who would have to navigate and handicap a range of uncertain outcomes.

CONCLUSION: HELPING CONSUMERS TO PAY DEDUCTIBLES

Informed by EO 14009, CMS-9904 has the laudable goal of "protecting and strengthening the ACA and making high-quality healthcare accessible and affordable for every American." Pursuant to that goal, CMS-9904 set out to mitigate the "potential harm to consumers who may purchase fixed indemnity excepted benefits coverage as a substitute for, or under the misapprehension that they are purchasing, comprehensive coverage." 299

The data provided in the public comments address and assuage the Departments' concern that consumers mistake SFI coverage for comprehensive coverage. The evidence is that nearly all participants in SFI also have comprehensive coverage, that only 2% of consumers are dissatisfied with their SFI coverage, and that only .02% have filed a formal complaint.

Further, the data show that consumers and employers make informed choices to allocate benefit dollars to SFI coverage in order to mitigate exposure to healthcare deductibles. Consumers will be harmed if, as proposed, SFI benefits are reduced or taxed.

This leaves unanswered the question posed in EO 14009, why do "millions of people who are potentially eligible for coverage under the ACA or other laws remain uninsured?" Based on the data provided in the public comments we can rule out SFI benefits as the culprit. The more likely reason is the dynamic observed in other insurance markets – some consumers simply choose to go uninsured. Perhaps the closest parallel is the auto insurance market. Forty-nine States mandate auto liability insurance[21] and forty-two require proof of insurance to register a vehicle.[22] But despite these mandates and controls, only 86% of consumers have auto insurance.[23] By comparison, more than 90% of Americans have comprehensive health insurance[24] even though health insurance is not mandated.

The administration can rightly take a win on ACA – more than 90% of Americans have comprehensive healthcare coverage. SFI products increase and stabilize participation in comprehensive health coverage by helping consumers to pay the deductibles on their comprehensive plans. The data suggest that reducing and taxing SFI benefits is more likely to decrease, rather than increase, enrollment in comprehensive coverage.

Sincerely,

William P. Whitely
Chief Executive Officer
Proximal Health, Inc.

APPENDIX

Appendix Table 1: Benefits that can be measured using market prices (base estimate)			
	SFI policies affected by disclosure notice provisions	**SFI policies not affected by disclosure notice provisions**	**Total benefits**
Policies in force	8,163,560	17,240,584	
Percent of enrollees dissatisfied	2%	N/A	
Policies affected	163,271	N/A	
Average benefit paid per policy	$144	N/A	
Total benefits paid (baseline)	$23,511,503	N/A	
Ratio of premiums to benefits	2x	N/A	
Freed-up premium dollars	$47,022,106	N/A	$47,022,106
Net annual effect of trend (1.02) and discount rate (0.98)	1.0x	N/A	

Sources and Assumptions: "Policies in force" sourced from multiple public comments that referenced AHIP-ACLI-BCBSA 2023 Survey; "Percent of enrollees dissatisfied" sourced from multiple public comments that referenced Global Strategy Group Satisfaction Study; "Average benefit paid per policy" sourced from multiple public comments that referenced Milliman Actuarial Study; "Ratio of premiums to benefits" assumed a loss ratio of 50% equivalent to ratio of premiums to benefits of 2x.

Appendix Table 2: Sensitivity analysis for benefits			
	Lower Estimate	**Base Estimate**	**Higher Estimate**
Policies in force	8,163,560	8,163,560	8,163,560
Percent of enrollees dissatisfied	0.2%	2%	2%
Policies affected	16,327	163,271	163,271
Average benefit paid per policy	$144	$144	$247
Total benefits paid (baseline)	$2,351,105	$23,511,053	$40,327,986
Ratio of premiums to benefits	2x	2x	2.5x
Freed-up premium dollars	$4,702,211	$47,022,106	$100,819,966

The Lower Estimate uses an alternative input from the Global Strategy Group Satisfaction Study which reduces the number of impacted enrollees from 2% (those that report being dissatisfied) to 0.2% (those that have filed a complaint). The Higher Estimate uses an alternative input from the Milliman Actuarial Study which increases the "Average benefit paid per policy" from $144 (Milliman Plan A) to $247 (Milliman Plan B). The Higher Estimate also assumes a lower loss ratio of 40% which increases the "Ratio of premiums to benefits" to 2.5x.

Appendix Table 3: Costs that can be measured using market prices (base estimate)			
	SFI policies affected by definitional and tax provisions	**SFI policies affected by tax provisions only**	**Total costs**
Policies in force	8,163,560	17,240,584	25,404,144
Percent of enrollees satisfied	92%	97%	
Policies affected	7,510,475	16,723,366	24,233,842
Average benefit paid per policy	$144	$144	
Total benefits paid (baseline)	$1,081,508,429	$2,408,164,773	
Benefit loss from new definitions %	-77%	-77%	
Benefit loss from new definitions $	-$832,761,490	-$0	-$832,761,490
Remaining benefit subject to tax	$248,746,939	$2,408,164,773	
Tax	-10%	-10%	
Benefit loss from new tax	-$25,000,000	-240,000,000	-$265,000,000
Total lost benefits ($)	-$857,761,490	-240,000,000	-$1,097,761,490
Net annual effect of trend (1.02) and discount rate (0.98)	1.0x	1.0x	1.0x

Sources and Assumptions: "Benefit loss from new definitions" sourced from multiple public comments that referenced Milliman Actuarial Study see Figure 3 which shows a 77% decrease in benefits; "Benefit loss from new tax" assumes 33% of policies are purchased with employer dollars, section 125 dollars, or other pre-tax dollars with tax rate of 30% inclusive of Federal, State, Local, and FICA taxes. This produces a net tax of 10%. Rounded result to two significant digits.

Appendix Table 4: Sensitivity analysis for costs (higher estimate)			
	SFI policies affected by definitional and tax provisions	**SFI policies affected by tax provisions only**	**Total costs**
Policies in force	8,163,560	17,240,584	25,404,144
Percent of enrollees satisfied	92%	97%	
Policies affected	7,510,475	16,723,366	24,233,842
Average benefit paid per policy	$247	$247	
Total benefits paid (baseline)	$1,854,186,117	$4,128,664,717	
Benefit loss from new definitions %	-82%	-82%	
Benefit loss from new definitions $	-$1,520,432,616	-$0	-$1,520,432,616
Remaining benefit subject to tax	$333,753,501	$4,128,664,717	
Ratio of premiums to benefits	2.5x	2.5x	
Premium subject to tax	$834,388,753	$10,321,661,791	
Tax	-10%	-10%	
Benefit loss from new tax	-$83,000,000	-$1,032,000,000	-$1,115,000,000
Total lost benefits ($)	-$1,603,432,616	-$1,032,000,000	-$2,635,432,616

The Higher Estimate uses an alternative input from the Milliman Actuarial Study which increases the "Average benefit paid per policy" from $144 (Milliman Plan A) to $247 (Milliman Plan B) and the "Benefit lost" from 77% (Milliman Plan A) to 82% (Milliman Plan B). The Higher Estimate also assumes that for operationally simplicity, employers tax SFI premiums rather than SFI benefits and that the "Ratio of premiums to benefits" is 2.5x.

Appendix Table 5: Original CBA

Benefits:

Non-Quantified:

- Reductions in information asymmetries in health insurance markets through increased consumer understanding of STLDI and fixed indemnity excepted benefits coverage in relation to comprehensive coverage.
- Increased enrollment in comprehensive coverage, with an estimated increase in enrollment in individual health insurance coverage purchased on an Exchange by approximately 60,000 people in 2026, 2027, and 2028 associated with the proposed provisions regarding STLDI.
- Improvement in market stability and market risk pools for comprehensive coverage.
- Reduction in the risk of high out-of-pocket health expenses, lower incidence of medical debt, improved health outcomes, and increased health equity for individuals who switch to comprehensive coverage.
- Potential reduction in the overall number of STLDI coverage rescissions or claims denials, if enrollment in STLDI declines.
- Potential reduction in deceptive or aggressive marketing practices regarding the sale of STLDI and fixed indemnity excepted benefits coverage.

Costs:	Estimate	Year Dollar	Discount Rate	Period Covered
Annualized Monetized ($/year)	$17,369	2023	7 percent	2024 - 2028
	$16,154	2023	3 percent	2024 - 2028

Quantified:

- One-time regulator review costs of approximately $76,200 for issuers of fixed indemnity excepted benefits coverage, and other interested parties.

Non-Quantified:

- Potential increase in premium costs for individuals who switch from STLDI to comprehensive coverage and are not eligible for the PTC.
- Potential increase in the number of uninsured individuals, if some individuals with STLDI who would no longer be permitted to renew or extend their coverage with the same issuer are unable to purchase STLDI from another issuer during a 12-month period and must wait until open enrollment to obtain comprehensive coverage, or choose not to purchase comprehensive coverage.
- Potential increase in healthcare spending, if individuals switch to comprehensive coverage and increase their use of healthcare as a result.
- Potential costs to States associated with enacting new legislation and implementing new laws regarding STLDI and fixed indemnity excepted benefits coverage in response to the provisions included in these proposed rules.

Transfers:	Estimate	Year Dollar	Discount Rate	Period Covered
Annualized Monetized ($/year)	-$67.1 million	2023	7 percent	2024-2028
	-$69.9 million	2023	3 percent	2024-2028

Quantified:

- Decrease in Federal spending on PTC of approximately $120 million in 2026, 2027, and 2028 associated with the proposed provisions regarding STLDI.
- Reduction in gross premiums for individual enrolled in individual health insurance coverage purchased on an Exchange by approximately 0.5 percent in 2026, 2027, and 2028 associated with the proposed provisions regarding STLDI.

Non-Quantified:

- Potential transfer from issuers to consumers if consumers switch from STLDI and fixed indemnity excepted benefits coverage to comprehensive coverage and experience a reduction in out-of-pocket costs.

END NOTES

[1] Data sourced from multiple public comments that referenced AHIP-ACLI-BCBSA 2023 Survey. For carriers that participated in the survey, there are 25,404,144 SFI policies in-force. This includes Fixed Indemnity and Specified Disease plans. This counts all individual policies and all certificates issued under group policies. The actual number of SFI polices in-force must be greater than 25,404,144 because not all carriers participated in the survey.
[2] Data sourced from multiple public comments that referenced AHIP-ACLI-BCBSA 2023 Survey. For carriers that participated in the survey, at least 96,274 employer groups held a policy that would be subject to the SFI provisions. The actual number of employers groups must be greater than 96,274 because a) the survey doesn't identify the number of employers who hold a Fixed Indemnity Policy but not a Specified Disease Policy, b) the survey doesn't identify the number of small employers who sponsor coverage but use individual policies, c) the survey doesn't identify the number of employers who are served by carriers that didn't participate in the survey.
[3] Neither CMS-9904 nor the public comments provided enrollment data to support the Department's hypothesis that there are a significant number of individuals who enroll in SFI but don't enroll in comprehensive coverage.
[4] Data sourced from multiple public comments that referenced AHIP-ACLI-BCBSA 2023 Survey. For carriers that participated in the survey, 79% of Fixed Indemnity in-force policies and 84% of Specified Disease in-force policies were distributed as part of an employer mediated open-enrollment process.
[5] Data sourced from multiple public comments that referenced Global Strategy Group Satisfaction Study
[6] ibid Global Strategy Group Satisfaction Study
[7] AFLAC https://www.regulations.gov/comment/CMS-2023-0116-11961 "products are sold through the employer, rather than direct to individuals. This helps ensure that the benefits appropriately supplement the employer's other benefit offerings"
[8] CIGNA https://www.regulations.gov/comment/CMS-2023-0116-12723 "selection of and enrollment in fixed indemnity coverage generally occurs after enrollment in group health plan coverage. This enrollment practice ensures there is minimal (if any) risk of confusion between group health and supplemental benefits"
[9] Proximal Health, Inc. https://downloads.regulations.gov/CMS-2023-0116-13055/attachment_1.pdf "On average, individual workers face $4,355 (sourced from KFF) in maximum OOP expenses every year. To help cover these OOP expenses, many employers provide workers with supplemental benefits"
[10] Data sourced from Global Strategy Group Satisfaction Study. For example, "90% agree that SFI "helped me pay for critical medical expenses I needed by easing the cost of deductible and copayments."
[11] See public comments from consumers including for example:

- *These types of insurance policies are very important to me because they help me pay for the unexpected costs of being sick that aren't covered by my medical insurance. My union has provided this insurance to help protect my family's budget and it is an important part of the benefits we have fought for.*
- *Not only would the proposed rule change the amount of cash I could receive, but it also adds a tax on the benefit and creates red tape for employers who offer these types of voluntary insurance benefits.*
- *It feels like we are losing a benefit that gets us through months of expenses that health insurance doesn't cover, all because of some out-of-touch political agenda.*
- *I urge you to think of the many people that are working to protect their budget in case of a serious illness or accident. Please don't take away access to insurance benefits for cancer, disease, and accidents.*

[12] Data sourced from multiple public comments that referenced Milliman Actuarial Study see 77% in Figure 3
[13] Percent of adults who report delaying and/or going without medical care due to cost at link
[14] Treatment cost and access to care: experiences of young women diagnosed with breast cancer at link
[15] The President's 2023 State of the Union Address
[16] American Fidelity https://downloads.regulations.gov/CMS-2023-0116-12289/attachment_1.pdf
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