NATIONAL WOMEN'S LAW CENTER
EXPANDING THE POSSIBILITIES

April 23, 2018

The Honorable R. Alexander Acosta
Secretary, U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

The Honorable Steven Mnuchin
Secretary, U.S. Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, DC. 20220

The Honorable Alex Azar
Secretary, U.S. Department of Health and Human Services
200 Independence Avenue, NW
Washington, DC 20201

RE: Short-Term, Limited-Duration Insurance [CMS-9924-P]

Dear Secretary Azar, Secretary, Mnuchin, and Secretary Acosta,

The National Women's Law Center is writing to comment on the Proposed Rule, Short-Term, Limited-Duration Insurance.

Since 1972, the National Women's Law Center ("the Center") has worked to protect and advance the progress of women and their families in core aspects of their lives, including income security, employment, education, and health and reproductive rights, with an emphasis on the needs of low-income women and those who face multiple and intersecting forms of discrimination. To that end, the Center has conducted extensive research regarding women's specific health needs, and works to ensure all people have equal access to a full range of health care, regardless of age, race, sex, sexual orientation, gender identity, ethnicity, geographic location, or type of insurance coverage.

The Affordable Care Act (ACA) made dramatic improvements for women's health coverage and women's health care by ending discriminatory health insurance practices, making health coverage more affordable and easier to obtain, and improving coverage for essential health services women need. However, the Proposed Rule would undermine that progress by reversing important regulations that restricted the sale of Short-Term, Limited-Duration (STLD) plans and

kept them temporary in nature, thereby ensuring that they did not disrupt the overall individual insurance market or further expose individuals to discriminatory practices.

STLD plans are designed to fill temporary gaps in coverage, such as when someone is between jobs; they are not comprehensive health insurance and are not required to comply with the Affordable Care Act's consumer protections. That leaves consumers in STLD plans exposed to discriminatory practices now banned in the ACA marketplaces. For example, STLD plans reject certain individuals, charge some more than others, and leave unsuspecting individuals who are able to enroll in the plans without the coverage they need, subjecting them to health and financial risks. These plans are cheaper than plans offered on the ACA marketplaces and without limits on their duration, would attract healthier individuals out of the marketplaces to rely on them long-term and leave a sicker risk pool.

That is why the Departments of Treasury, Labor, and Health and Human Services ("the Departments") put certain safeguards in place to protect consumers and the ACA individual marketplace from the harms of STLD plans. Specifically, in 2016, to better align STLD plan rules with the ACA's health insurance market and to ensure that consumers did not rely upon STLD plans for their long-term health coverage needs to their detriment, the Departments issued final regulations limiting the duration of STLD plans to up to three months, including any period for which the policy may be renewed.[i] These final regulations made sure that STLD plans remained temporary in nature, and would not lure healthier individuals out of the marketplaces, putting the individual health insurance market at risk. The regulations also helped to ensure that women and other consumers were not unduly exposed to discriminatory practices like health insurance underwriting, rescissions, annual limits and other financial risk resulting from long-term reliance on STLD plans lacking consumer protections.[ii] These regulations also recognized that, post-ACA, consumers would not experience the same lack of availability for coverage that was widespread pre-ACA without guaranteed issue.

Yet, this Administration wants to change those safeguards through this Proposed Rule. The Proposed Rule would extend enrollment in STLD plans to up to a year, which is well beyond the previously restricted three month maximum, making STLD plans appear to be an alternative to ACA-complaint plans. The Proposed Rule would also allow beneficiaries to renew their contracts. Despite what the Departments claim, the goal of the Proposed Rule is not to expand coverage options in order to help consumers. The goal is to undermine the ACA. As with many of the other steps the Departments have taken under the Trump-Pence Administration to undermine the ACA, women will bear the brunt of the harm.

That is because women are at particular risk from STLD plans. As explained in more detail below, the practices STLD plans engage in – like charging women more than men, failing to cover the health services women need, and treating women as a preexisting condition – discriminate against women and saddle women with high health care costs, threatening their health and

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economic security. Additionally, destabilizing the ACA marketplaces – as the Proposed Rule would do – will threaten the important gains women have made in health insurance coverage thanks to the ACA.

For these reasons, the Center strongly opposes the Proposed Rule and urges the Administration to instead preserve and enforce the ACA and its important consumer protections that have been vital for women's health and economic security.

I. STLD Plans Leave Women Without Vital Consumer Protections, Jeopardizing Their Health and Economic Security

Because short-term insurance is not regulated by the ACA, such plans do not need to meet any of the benefit protections required in the individual health insurance market. As a result, short-term plans may:

- Charge women more for coverage than men;
- Fail to cover the Essential Health Benefits, including preventive services, maternity care, and mental health parity;
- Require cost sharing for covered preventive services;
- Exclude contraceptive services;
- Deny coverage to individuals with pre-existing conditions and exclude pre-existing conditions from coverage; and
- Apply dollar value maximums.

Indeed, as explained below, the Center has identified numerous gaps and discriminatory practices in coverage in STLD plans that harm women.

a. *Many Short-Term, Limited Duration Plans Charge Women More Than Men*

Prior to the ACA, the practice of gender-rating, or insurance companies charging women more than men, was widespread. According to the Center's research, in states that did not ban the practice, 92 percent of plans in the individual market practiced gender-rating.[iii] But, STLD plans are not required to comply with the ACA's prohibition on gender-rating, and many can—and do—charge women more for health insurance. In 2016, the Center compared premiums of short-term insurance plans offered by three carriers available in the District of Columbia through an online website.[iv] All three carriers charged a higher premium for a 30 year-old woman than for a 30 year-old man.[v] One plan charged 79.7% more for a 40 year old woman than for a 40 year old man.[vi] Expanding access to STLD plans, as the Proposed Rule would do, will subject more women to this discriminatory practice. This kind of discrimination is unacceptable. The prior Administration's safeguards, including limiting the duration of STLD plans, ensured that consumers were not exposed to this discriminatory treatment for prolonged periods,

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enabling them to transition to ACA-complaint plans. But, by extending the duration of STLD plans to make them comparable to the duration of marketplace plans, the Proposed Rule would result in many consumers relying on STLD plans for their long-term needs, exposing themselves to these discriminatory practices for longer durations and undermining their health and economic security.

b. *Many Short-Term, Limited-Duration Plans Fail to Provide Women with Coverage for the Health Care That They Need*

Plans sold on the ACA individual marketplace are required to cover essential health benefits (EHBs), including maternity and newborn care, preventive and wellness services, mental health services, and prescription drugs. This requirement corrects notable benefit gaps that existed prior to the ACA and significantly advances women's access to critical health services. But, STLD plans are exempt from the ACA's EHB coverage requirement and routinely fail to cover EHBs important for women. A 2017 analysis found that all of the best-selling STLD plans sold on eHealth exclude four categories of EHBs: preventive services, maternity care, mental health and substance abuse services, and prescription drugs.[vii] These four categories of EHB are particularly important to women. Nearly one in ten women will experience symptoms of depression in her lifetime,[viii] and women are more likely to be prescribed medications than men.[ix]

This analysis comports with the Center's own research and findings on STLD plans. In 2016, the Center reviewed brochures and websites of four issuers selling short-term insurance in the District of Columbia.[x] All four issuers it researched excluded maternity care and outpatient prescription drugs and charged cost sharing for covered preventive services. Two of the issuers did not cover an annual obstetrical/gynecological exam or other well woman visit and one issuer excluded sterilization and contraceptive devices. Three issuers excluded coverage for mental health and/or substance abuse services. In addition to that research, the Center has heard first-hand accounts from women enrolled in STLD plans that excluded coverage for contraceptive drugs, devices, and services.[xi] Moreover, in addition to failing to provide EHB, STLD plans exclude coverage for abortion.[xii]

The Proposed Rule does nothing to remedy STLD plans' widespread exclusion of coverage of health care vital for women. Instead, by attempting to expand the availability of STLD plans, the Proposed Rule will result in more women becoming enrolled in plans that fail to provide coverage that meets their health needs.

c. Short-Term Plans Undermine Access to Coverage for Women with Pre-Existing Conditions

The Center's extensive research demonstrates how, before the ACA, women were routinely denied coverage or dropped from existing coverage because of pre-existing health conditions unique to women, like having had a Cesarean delivery, a prior pregnancy, or breast or cervical cancer.[xiii] Under the ACA's community rating requirements, insurers are prohibited from considering health status in determining how much to charge for coverage. This means not only can issuers no longer treat women as pre-existing conditions, denying coverage based on conditions unique to women, but also that they cannot deny health coverage or quote higher premiums to those who are more likely to suffer from certain chronic conditions. This is particularly important since women have higher rates of chronic conditions than men and are more likely to suffer from mental health problems, such as anxiety and depression.[xiv] Indeed, the ACA's protections for people with pre-existing conditions expanded access to robust and affordable health coverage for over 67 million women nationwide with pre-existing conditions and chronic conditions.[xv] Yet, because STLD plans are not subject to the ACA's consumer protections, STLD plans jeopardize that coverage by using pre-existing condition exclusions. STLD plan issuers often use questionnaires to identify health conditions and deny coverage to people with certain "pre-existing conditions," which may include women with prior pregnancies.[xvi]

Even individuals with pre-existing conditions who are enrolled in STLD plan coverage could have their claims denied or left unpaid by STLD plan issuers. Reports detail stories of people who had their STLD plans rescinded after filing an expensive claim or had claims for cancer treatments denied as a pre-existing condition.[xvii] STLD plans also practice rescission—denying claims once they have been filed—for conditions that individuals may not even be aware that they had when they signed up for the policy. For example, a woman in Atlanta bought a short-term plan in 2014 unaware that she had breast cancer and the insurer considered it a pre-existing condition and refused to cover it, leaving her with $400,000 in medical bills.[xviii] Some STLD plans go so far as to bury in the fine print in their policies provisions stating that claims will not be paid for health conditions for which consumers received medical care or advice about in the last *five years* or for which consumers had symptoms for in the last five years, even if they didn't seek medical care.[xix]

The Proposed Rule will increase the number of people subject to pre-existing condition exclusions and rescissions, reversing important gains made by the ACA.

d. *STLD Plans Harm Women's Health and Financial Security, and are Particularly Detrimental to Women of Color*

By charging women more than men, failing to cover the care that women need, and treating being a woman as a pre-existing condition, STLD plans threaten women's health and economic security. The Departments even acknowledge that consumers who switch from ACA-compliant plans to STLD plans could experience loss of access to some services and providers and an increase in out-of-pocket expenditures related to such excluded services.[xx] For women, these costs could be significant. For example, a woman enrolled in an STLD plan that does not cover maternity care could end up being shouldered with maternity costs ranging from $30,000 to $50,000 for more complicated births.[xxi]

In addition to paying costs for services not covered, like maternity care, many STLD plans also leave consumers with additional costs because:

- They can cap annual or lifetime coverage—with many STLD plans capping covered benefits at $1 million or less, which someone with a serious illness could surpass.[xxii] For example, one insurer caps covered benefits, including treatment, services, and supplies at just $750,000 per coverage period. At least one insurer provides per-service limits such as $1,000 per day for hospital room and board, $500 per day for emergency room services, $250 per trip for ambulance, and $10,000 for AIDS treatment.[xxiii]
- They can have high deductibles, ranging from $7,000 to $20,000 for three months of coverage, compared to ACA-complaint plans that offer a year of coverage and are legally-bound to preset limits.[xxiv]
- They are not subject to out-of-pocket maximums, which can leave consumers facing major, unpredictable financial risk. The ACA limits out-of-pocket maximums to $7,350 for individual coverage for the entire year, but some short-term plans may require out-of-pocket costs in excess of $20,000 per individual per policy period.[xxv] In some cases, out-of-pocket maximums for short-term plans are misleading and appear to be smaller than they are because the deductible does not count toward the maximum.

According to one study, an estimated 4.3 million would enroll in STLD plans[xxvi]—and of those, many would realize the limitations of their STLD plan coverage only when they have a health crisis or emergency. For women who are more likely to live in poverty, earn less than men, and are more likely to work in low-wage jobs and less able to absorb costs, STLD plans' discriminatory practices and these additional costs can force women to forgo necessary care – exacerbating chronic conditions and leading to poor health outcomes – or push women into medical debt.

This is particularly the case for women of color working full time who make less than their white male counterparts, such as: black women who make only 63 cents for every dollar paid to white men; Hispanic women who make only 54 cents compared to white men; Native Hawaiian and Pacific Islander women who make only 59 cents in comparison to white men; and Native women making only 57 cents for every dollar made by white men.[xxvii] This wage gap translates to an annual loss in wages of $21,698 for black women; $26,403 for Latinas; $24,007 for Native women; and $7,310 for Asian women.[xxviii] High out-of-pocket or other medical costs can be devastating for women of color impacted by the wage gap and struggling to make ends meet.

And because women of color are more likely to live in poverty than whites, high health care and coverage costs are particularly prohibitive. Research shows that, in the years before the ACA, women of color were more likely to go without health care because of cost at higher rates than men or white women, leaving them vulnerable to a lifetime of illness.[xxix] Women of color already suffer more acutely from health disparities, and STLD plans will only exacerbate their health outcomes since they can deny coverage to individuals with pre-existing conditions. For example, there are high rates of breast cancer and maternal mortality among black women and higher rates of cancer among Asian American and Pacific Islander women and chronic health conditions.[xxx] And African-American women who are twice as likely to develop diabetes as white women would likely be denied the coverage that they need to access care to treat diabetes.[xxxi] STLD plans – lacking the ACA's consumer protections – will leave women of color in a dire situation. Without the ACA protections, already existing health disparities for women of color and their families would be exacerbated,[xxxii] and their financial security further threatened.

II. The Proposed Rule Would Undermine and Destabilize the ACA Individual Marketplaces for Women and Other Consumers Remaining in Them

Limitations on STLD plan duration help ensure that health risk is spread among individuals participating in the individual market and that healthy individuals are not pulled out of the individual market and into STLD plans. The Proposed Rule will instead destabilize the ACA marketplaces by taking health people away from traditional health insurance, leaving a sicker risk pool and driving up premiums. This will be particularly harmful to women.

Because STLD plans can engage in discriminatory practices and deny coverage to individuals with pre-existing conditions or high health risks, the Proposed Rule's expansion of the availability of STLD plans will result in healthy individuals leaving the ACA individual markets, while individuals with more health needs remain in the individual marketplace. The resulting risk pool will contribute to instability in the individual market, raising the costs for individuals remaining in it. The Departments even acknowledge that the Proposed Rule would lead to this inevitable outcome: "[T]his [P]roposed [R]ule may further reduce choices for individuals

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remaining in those individual market single risk pools" and that "[change in the individual market single risk pools] would result in an increase in premiums for the individuals remaining in those risk pools."[xxxiii]

These outcomes have been well-documented by research and analysis on STLD plans and the Proposed Rule. One study estimates that—if the Proposed Rule is finalized as written—in the first year, premiums in the ACA-compliant individual market would increase by 0.7 percent to 1.4 percent and enrollment would decrease by 2.7 to 5.4 percent.[xxxiv] Once the changes take hold, the study estimates that, premium costs in the ACA-compliant individual market will increase from 2.2 percent to 6.6 percent, with enrollment decreasing from 8.2 percent to 15.0 percent.[xxxv] Combined with repeal of the ACA's individual responsibility provision, the study estimates that the Proposed Rule could result in premiums increases from 10.8 percent to 12.8 and decrease enrollment from 20.9 percent to 26.3 percent.[xxxvi]

This will be particularly devastating for women with pre-existing conditions or high health needs who would likely remain in the ACA marketplaces because they need the robust coverage and consumer protections of marketplace plans. But, because healthier individuals would leave the ACA marketplaces and sicker individuals, with higher health costs would remain, coverage costs would increase in the marketplaces, imposing high costs on those least able to bear the financial risk of higher premiums or other health costs. Since women are more likely to forego health insurance due to costs, they are at particular risk for leaving the ACA marketplaces and losing health insurance coverage altogether due to the Proposed Rule's changes and the resulting increased costs.

Indeed, research shows that the Proposed Rule's expansion of the sale of STLD plans will result in higher uninsured rates and more individuals going without minimal essential coverage. A study by the Urban Institute estimates that the Proposed Rule could result in 8.5 million fewer people having insurance compared with prior law.[xxxvii] The same study estimates that ACA-compliant private coverage would fall by 2.2 million people in 2019 from the Proposed Rule's expansion of STLD policies alone, with approximately 36.9 million people going without minimal essential coverage (MEC), an increase of over 2.6 million people over current law because of the gutting of the individual responsibility provision in the tax law and other policy changes. [xxxviii]

Losing coverage would be a tremendous blow to the advances made by the ACA in helping women, particularly women of color, gain health insurance coverage. Since the ACA was first enacted, uninsured rates among women have fallen by more than half,[xxxix] and according to the Center's calculations, over 90 million non-elderly adult women nationwide, including 33 million women of color, now have health insurance coverage through an employer, the ACA marketplaces, state Medicaid programs, or another source.[xl] And insured rates among women of color increased by 15 percent just from 2013 to 2016 (with over 6 million women of color gaining health coverage in that time period), undoubtedly due to the expanded availability of

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affordable coverage under the ACA.[xli] Three states and the District of Columbia have now achieved nearly universal health coverage (95 percent or greater) of women of color.[xlii] Pre-ACA, no state had nearly universal health coverage of women of non-elderly women of color.[xliii] The ACA's vital consumer protections, including its prohibitions on denying coverage based on health status and its limits on out-of-pocket charges and annual or lifetime limits have helped to promote expanded coverage for many women of color. But, the Proposed Rule threatens the health and economic security of women of color and millions of others who have experienced historic health coverage gains due to the ACA.

The expansion of the availability of STLD plans and the resulting cost increases and instability triggered in the ACA-complaint individual marketplaces as a result of the Proposed Rule could return women to a time when high medical costs forced them to shoulder high costs or to forgo health insurance coverage altogether.

III. If The Departments Move Forward with the Proposed Rule, Safeguards Must be Added

As stated above, the Center opposes the Proposed Rule. However, if the Departments decide to move forward, they must at least provide some important safeguards to protect consumers.

a. The Departments Must Provide Consumers with Clear and Easily Understandable Notice about the Limitations of STLD Plans

While the Proposed Rule requires STLD plans to provide notice to consumers that the plan does not comply with federal requirements and that enrollees might have to wait until open enrollment to gain ACA-compliant coverage—deceptive marketing by STLD may lure consumers into STLD plans. Therefore, the Departments must ensure that the marketing accompanying STLD plans, in addition to notice, clearly informs consumers about the limitations of STLD plan coverage. Lack of transparency and misleading marketing contribute to consumer misunderstanding of the limitations of STLD plans. And consumers who are unaware that STLD plans do not qualify as Minimal Essential Coverage (MEC) under the ACA's individual responsibility provision and who do not qualify for recently expanded "hardship exemptions" from the ACA's Minimal Essential Coverage requirement could find themselves paying a penalty in 2018.[xliv] Ensuring that women and other health care consumers are provided with clear and understandable information about the limitations in coverage and absence of consumer protections in STLD plans is vital to ensuring that they make informed decisions about their coverage. Particularly for women who tend to make health coverage decisions for their families, clear notice of coverage parameters is important.

Therefore, the Center urges the Departments to ensure that notice provided to consumers about STLD plans is clear and easily understandable and available in multiple languages. Clear notice is even more urgent if the Proposed Rule is finalized as proposed—and STLD plans are extended to 364 days, making them comparable in length to ACA-compliant coverage. In addition, the Center recommends listing specific examples of ACA protections that STLD lack, such as lack of protections for individuals with pre-existing conditions and no requirements to provide EHB coverage. Such clear notice will help women in need of robust health coverage and other consumers understand the limitations of STLD plan coverage and the probable costs they will have to shoulder if they encounter any health problems.

b. The Departments Must Clearly Prohibit Discrimination by STLD Plans

The Center opposes the Proposed Rule, but if it is finalized, the Center urges the Departments to include language prohibiting discrimination. Specifically, the Center recommends that the definition of short-term insurance be revised to include a prohibition on discriminatory practices by issuers that have the effect of discriminating on the basis of sex or other protected classes. As previously noted, STLD plans can engage in a range of discriminatory practices, like charging women higher premiums and excluding maternity and contraceptive services, practices that are now clearly prohibited elsewhere in health insurance thanks to the Affordable Care Act. So too should these practices be clearly prohibited in STLD plans.

While states do have broad authority to regulate STLD plans and can take action to protect consumers from discriminatory practices, such as by prohibiting the sale of STLD plans; requiring that they comply with protections of plans on the individual market; or restricting the duration of plans,[xlv] it should not fall solely on states to prohibit STLD plans from discriminating against women. The Departments must make non-discrimination a clear requirement for STLD plans.

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Expanding health coverage options that are inadequate for meeting women's health needs and that threaten women's health and economic security is not promoting consumer choice. It is depriving women of meaningful coverage and retracting the gains for women's health secured by the ACA. The Center recommends that the Departments not finalize the Proposed Rule but instead, take care to ensure that insurance plans do not turn back the clock on the ACA's consumer protections that have been critical for women's health and economic security.

Sincerely,

Fatima Goss-Graves
President & CEO
The National Women's Law Center

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[i] These final regulations were effective for plans starting in April 2017. 81 Fed. Reg. 75316, *Excepted Benefits; Lifetime and Annual Limits; and Short-Term, Limited-Duration Insurance* (October 31, 2016).
[ii] *See* Association of Community Affiliated Plans, *Effects of Short-Term Limited Duration Plans on the ACA-Compliant Individual Market*, Wakely (April 2018) http://www.communityplans.net/wp-content/uploads/2018/04/Wakely-Short-Term-Limited-Duration-Plans-Report.pdf.
[iii] NAT'L WOMEN'S LAW CTR., *Turning to Fairness: Insurance Discrimination against Women Today and the Affordable Care Act*. (2012), http://www.nwlc.org/sites/default/files/pdfs/nwlc_2012_turningtofairness_report.pdf.
[iv] EHEALTH, https://www.ehealthinsurance.com/ [last visited Aug. 8, 2016].
[v] The carriers were HCC Life Short Term Medical (Tokiomarine HCC), eHealth Plus+ underwritten by National Health Insurance Co., and The IHC Group. Rates were compared for a man and a woman at age 20, 30, and 40. In all three instances, women were charged a higher rate than men.
[vi] HCC Life Short Term Medical (20/2500).
[vii] D. Palanker, K. Lucia, and E. Curran, *New Executive Order: Expanding Access to Short-Term Health Plans Is Bad for Consumers and the Individual Market, To the Point*, The Commonwealth Fund (October 11, 2017) http://www.commonwealthfund.org/Publications/Blog/2017/Aug/Short%20Term%20Health%20Plans.
[viii] *See* Centers for Disease Control and Prevention, *Depression Among Women*, https://www.cdc.gov/reproductivehealth/depression/index.htm [citing *Depression and Treatment Among U.S. Pregnant and Non-pregnant Women of Reproductive Age, 2005-2009*, Ko, J.Y. et al., .J Women's Health, 2012 Aug. 21 (8)830-6].
[ix] Mayo Clinic, *Nearly 7 in 10 Americans Take Prescription Drugs, Mayo Clinic, Olmsted Medical Center Find* (June 19, 2013) https://newsnetwork.mayoclinic.org/discussion/nearly-7-in-10-americans-take-prescription-drugs-mayo-clinic-olmsted-medical-center-find/.
[x] These carriers were Agile Health Insurance (Standard Life), HCC Life Short Term Medical (Tokiomarine HCC), eHealth Plus+ underwritten by National Health Insurance Co., and The IHC Group.
[xi] Reports on file with the NAT'L WOMEN'S LAW CTR.

[xii] Palanker, Dania, *The Trump Administration Wants to Expand Access to Insurance That Discriminates Against Women*, Rewire (March 28, 2018) https://rewire.news/article/2018/03/28/trump-administration-wants-expand-access-insurance-discriminates-women/.
[xiii] *See* NAT'L WOMEN'S LAW CTR., *Still Nowhere to Turn: Insurance Companies Treat Women Like a Pre-Existing Condition*, at 10 (Oct. 2009) https://nwlc.org/wp-content/uploads/2015/08/stillnowheretoturn.pdf; NAT'L WOMEN'S LAW CTR., *supra* note 3, at 4-5.
[xiv] ELIZABETH M. PATCHIAS & JUDY WAXMAN, THE COMMONWEALTH FUND AND THE NAT'L WOMEN'S LAW CTR. *Women and Health Coverage: The Affordability Gap*, 4 (2007) http://www.commonwealthfund.org/usr_doc/1020_Patchias_women_hlt_coverage_affordability_gap.pdf. Importantly, any health plan issuer that receives federal financial assistance—including any plan issuer that receives subsidies by selling plans in the Marketplaces—must comply with Section 1557's nondiscrimination protections in any plan that it sells, including STLD plans.
[xv] Department of Health and Human Services, Office of Assistant Secretary for Planning and Evaluation (ASPE), Issue Brief, *Health Insurance Coverage for Americans with Pre-Existing Conditions: The Impact of the Affordable Care Act* (Jan. 5, 2017) https://aspe.hhs.gov/system/files/pdf/255396/Pre-ExistingConditions.pdf.
[xvi] *Id*.
[xvii] Palanker, Dania, et al., *New Executive Order: Expanding Access to Short-Term Health Plans is Bad for Consumers and the Individual Market*, To the Point: Commonwealth Fund (Oct. 11, 2017) http://www.commonwealthfund.org/publications/blog/2017/aug/short-term-health-plans.
[xviii] Lueck, Sarah, *Health Care Executive Order Would Destabilize Insurance Markets, Weaken Coverage* (November 29, 2017) https://www.cbpp.org/research/health/health-care-executive-order-would-destabilize-insurance-markets-weaken-coverage [last visited March 26, 2018].
[xix] Fish-Parcham, Cheryl, *Seven Reasons the Trump Administration's Short-Term Plans are Harmful to Families*, Families USA (March 2018) http://familiesusa.org/product/seven-reasons-trump-administrations-short-term-health-plans-are-harmful-families.
[xx] 83 Fed. Reg. 7437, *Short-Term, Limited-Duration Insurance*, Proposed Rule (February 21, 2018).
[xxi] Truven Health Analytics Marketscan Study, *The Cost of Having a Baby in the United States* (Jan. 2013), http://transform.childbirthconnection.org/wp-content/uploads/2013/01/Cost-of-Having-a-Baby1.pdf.
[xxii] Pollitz, Karen, *Understanding Short-Term Limited Duration Health Insurance* (February 2018), https://www. kff.org/report-section/understanding-short-term-limited-duration-health-insurance-issue-brief/#endnote_link_249350-1.
[xxiii] The IHC Group. "Secure Lite: Short-term Medical Insurance for Individuals and Families."
[xxiv] Many ACA-complaint individual plans were essentially capped at the maximum out of pocket amount of $7,150 in 2017. Cohen, Michael, et al., Wakely Consulting Group, Association for Community Affiliated Plans, *Effects of Short-Term, Limited-Duration Plans on the ACA-Compliant Individual Market* (Apr. 2018) http://www.communityplans.net/wp-content/uploads/2018/04/Wakely-Short-Term-Limited-Duration-Plans-Report.pdf.
[xxv] Polliz, Karen, *Understanding Short-Term Limited Duration Health Insurance.* Kaiser Family Foundation (February 9, 2018) https://www.kff.org/health-reform/issue-brief/understanding-short-term-limited-duration-health-insurance/ [last visited March 26, 2018].
[xxvi] *Id*.
[xxvii] NAT'L WOMEN'S LAW CTR., *The Wage Gap: The Who, How, Why and What to Do* (September 2017) https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2016/09/The-Wage-Gap-The-Who-How-Why-and-What-to-Do-2017-2.pdf.
[xxviii] *Id*.
[xxix] NAT'L WOMEN'S LAW CTR., *Women's Preventive Services in the Affordable Care Act: Frequently Asked Questions* (May 2013) https://nwlc.org/wp-content/uploads/2015/08/womens_prev_services_in_the_aca_faq_5-13-13.pdf.
[xxx] In Our Own Voice, National Asian Pacific American Women's Forum, National Latina Institute for Reproductive Health, National Partnership for Women and Families, *Attacks on the Affordable Care Act, Planned Parenthood and Medicaid Are Attacks on Reproductive Justice for Women of Color* (Updated September 2017) http://www.nationalpartnership.org/research-library/repro/the-house-republican-repeal-bill-threatens-reproductive-justice-for-women-of-color.pdf.
[xxxi] *Id*.
[xxxii] *Id*.

[xxxiii] 83 Fed. Reg. 7437, *Short-Term, Limited-Duration Insurance*, Proposed Rule (February 21, 2018).
[xxxiv] Cohen, Michael, et al., Wakely Consulting Group, Association for Community Affiliated Plans, *Effects of Short-Term, Limited-Duration Plans on the ACA-Compliant Individual Market* (Apr. 2018) http://www.communityplans.net/wp-content/uploads/2018/04/Wakely-Short-Term-Limited-Duration-Plans-Report.pdf.
[xxxv] *Id*. at 18.
[xxxvi] *Id*.
[xxxvii] Blumberg, Linda, et al., Urban Institute, *The Potential Impact of Short-Term, Limited-Duration Policies on Insurance Coverage, Premiums, and Federal Spending*, Mar. 2018, at 12, https://www.urban.org/sites/default/files/publication/96781/2001727_updated_finalized.pdf.
[xxxviii] *Id*. at 6.
[xxxix] NAT'L WOMEN'S LAW CTR., calculations based on U.S. Census data. (2018) https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2017/02/WOC-Health-Coverage-by-State-2016.pdf.
[xl] *Id*.
[xli] *Id*.
[xlii] *Id*.
[xliii] *Id*.
[xliv] The recently enacted tax law reduces the individual responsibility provision penalty to $0 in 2019. Tax Cuts and Jobs Act, Pub. L. 115-97.
[xlv] Families USA, *Taking Action to Prevent the Harmful Impact of Short-Term Plans* (April 10, 2018) http://familiesusa.org/product/taking-action-prevent-harmful-impact-short-term-plans.