CHURCH ALLIANCE
Acting on Behalf of Church Benefits Programs

Counsel:
K&L Gates LLP
1601 K Street NW
Washington D.C. 20006
Tel (202) 778-9000
Fax (202) 778-9100

April 23, 2018

By electronic submission (http://www.regulations.gov)

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS–9924-P
P.O. Box 8010
Baltimore, MD 21244–8010

Re: Short-Term, Limited-Duration Insurance

To Whom It May Concern:

The Church Alliance submits this comment in response to the proposed rule (the "Rule") amending the definition of short-term, limited-duration insurance ("STLDI") for purposes of its exclusion from the definition of individual health insurance coverage. As you know, the Rule was issued jointly by the Department of the Treasury, the Department of Labor, and the Department of Health and Human Services (together, the "Departments") and published at 83 Fed. Reg. 7437 (Feb. 21, 2018).

The Church Alliance is a coalition of the chief executive officers of 38 church benefits organizations, shown on the left side of this letterhead. The Church Alliance represents these church benefits organizations, which are affiliated with mainline and evangelical Protestant denominations, two branches of Judaism, and Catholic schools and institutions.

I. BACKGROUND ON CHURCH ALLIANCE MEMBERS' HEALTH PLANS

Church Alliance members provide employee benefits, including in many cases, health coverage, to approximately one million participants (clergy and lay workers, hereinafter "church workers") serving over 155,000 churches, synagogues and affiliated organizations. The health plans are defined as "church plans" under section 3(33) of the Employee Retirement Income Security Act of 1974 ("ERISA") and section 414(e) of the Internal Revenue Code (the "Code"). These plans ("church health plans") typically are sponsored by religious denominations or separate entities established by a denomination to sponsor retirement and health and welfare benefits to the church workers serving the denomination's churches and associated employers. Members of the Church Alliance provide centrally-administered, portable, comprehensive benefits coverage to thousands of small church employers and their workers.

Church health plans administered by Church Alliance members provide health coverage for church workers located in multiple states, with many of these church health plans providing coverage to church workers in all fifty (50) states. Participation in these church health plans often is optional for ministries, either for some or all of their church workers. Whether participation is optional, and the extent to which it is optional, often is based on religious belief, expressed through resolution, decree or other statements of the denomination.

Once a ministry has decided to participate in a church health plan (or adopts the plan per a denominational mandate), the scope of the church workers who must be covered by the church health plan also often is specified or guided by the denomination, generally based on religious beliefs or principles of justice based on religious beliefs. Since these plans generally are sponsored by the denomination, the denomination typically controls the requirements of each plan.

Church workers often move from state to state, sometimes pursuant to a denominational mandate. This is particularly true in the case of ministers, teachers and others in leadership positions for the ministries. This means that the church worker's health coverage may change due to the move, based on the coverage provided by each ministry.

Church health plan coverage satisfies the Affordable Care Act (ACA) coverage requirements, which makes it more costly than STLDI. Church health plans often are designed to provide financial and welfare security to a workforce that works for lower than market compensation consistent with religious beliefs or denominational mandates or statements. In addition, church health plans generally cover an older and sicker population, due to the aging of clergy in most denominations and to religious beliefs on caring for the sick. The affordability of these programs is also a challenge for the sponsors. The proposed modification of the STLDI Rule may position those plans as a viable alternative coverage option for church workers. This uneven regulatory environment could challenge the financial solvency for long-standing programs such as the Church Alliance member health plans to the permanent disadvantage of many career servants of this country's religious organizations.

II. INTEREST OF THE CHURCH ALLIANCE

The Church Alliance is concerned that lengthening the maximum period of STLDI may have the unintended effect of adversely impacting church health plans. Ministries often struggle with financial challenges. Typically, the largest expenses of a ministry are wages and benefits. Therefore, with denominations that do not mandate church health plan coverage for all church workers of all ministries, ministries may be tempted to cease providing church health plan coverage in order to cut costs. Church workers, who often are lowly paid and do not have expertise in employee benefits, may be tempted to purchase health care coverage at the lowest cost. This is likely to lead to a scenario where more church workers opt for STLDI if the maximum period of such insurance is lengthened.

This could have a potential negative impact on church health plans. As church workers age and/or become sick, often they still will be able to enroll in church health plan coverage. Church health plans often must accept these church workers due to denominational mandates, frequent moves by church workers (particularly from a ministry that is not in the church health plan to a ministry that is in that plan) and ACA requirements, including guaranteed issue and the prohibitions of pre-existing conditions exclusions and denials. These ACA consumer protections are not required for STLDI plans, providing those plans with a pricing competitive advantage.

As a result, church health plan coverage may be subjected to the costs of covering sicker workers, while insurance carriers provide STLDI coverage at a low cost to healthy individuals. As the costs for church health plans continue to escalate, the contributions paid by ministries for such coverage will need to increase, which will increasingly strain ministries' budgets and will lead some ministries with healthier church workers to cease providing church health plan coverage. This may result in a death spiral for some church health plans, as the pool of church workers covered shrinks to only sicker church workers.

To prevent this result, the Church Alliance respectfully requests that STLDI coverage be limited to filling short-term coverage gaps and that the Rule refrain from lengthening the maximum period of STLDI coverage or, if that is not possible, only lengthen the maximum period to no longer than six months.

Thank you for providing us with the opportunity to comment. Should you have any questions or wish to discuss these issues further, please contact the undersigned at (202) 778-9128.

Sincerely,

Karishma Shah Page
Partner,
K&L Gates LLP
On Behalf of the Church Alliance