

I AM (Still) ESSENTIAL

May 15, 2015

The Honorable Sylvia Mathews Burwell
Secretary of Health and Human Services
200 Independence Avenue SW
Washington, D.C. 20201

Re: Adequate Review of 2016 Qualified Health Plans

Dear Madame Secretary:

We, the undersigned 219 patient and community organizations representing millions of patients and their families, remain dedicated to the successful implementation of the Affordable Care Act (ACA). With the close of the second open enrollment period, millions of Americans now have gained health coverage and the number of uninsured in the country has dramatically decreased. **As you begin to review the Qualified Health Plans (QHPs) for 2016, we want to ensure that the many positive patient protections that were included in the [Notice of Benefit and Payment Parameters for 2016](#) and the [Letter to Issuers](#) are adhered to and strictly enforced.**

As we have detailed to you in the past, many patients have had troubling experiences with some Qualified Health Plans (QHPs). In particular, patients living with chronic conditions have found that some plans offer limited benefits, high cost-sharing and discriminatory plan designs, and lack of transparency. We are very pleased that beginning in 2016, you will require plans to address some of these barriers with new transparency and exceptions provisions. Having accurate, complete, and up-to-date lists of drugs and providers that are easily accessible to patients will help them select the plan that best meets their needs. Plans must also disclose any restrictions, including prior authorization, step therapy, and quantity limits for covered medications. The added exceptions processes will help patients access medically necessary medications prescribed by their providers. The Centers for Medicare and Medicaid Services (CMS) has also stated that plans cannot remove drugs from their formularies mid-year unless it is due to the availability of the drug.

In addition, CMS has stated that it will review plans for adequate drug coverage and discriminatory plan design. CMS has stated in the past that it would conduct these reviews. However, the growing number of plans engaging in discriminatory practices is evidence that thorough reviews have not taken place. In the *Letter to Issuers*, CMS cautions issuers from discouraging enrollment of individuals with chronic health needs and provides examples of discriminatory plan designs. One example is “if an issuer places most or all drugs that treat a specific condition on the highest cost tiers, that plan design might effectively discriminate against, or discourages enrollment by, individuals who have those chronic conditions.”

In order to identify discriminatory plan designs, CMS states it will conduct outlier analysis on plan cost sharing, including co-payments and co-insurance, and total out of pocket costs

associated with standard treatment protocols for specific conditions. It will also review any medical management techniques, such as prior authorization and/or step therapy, to ensure they are based on clinical guidance, and analyze formularies to ensure drug coverage is consistent with treatment guidelines for certain conditions.

We strongly urge you to ensure that CMS fulfills its duties and adequately reviews the 2016 plans in accordance with the above stated requirements and reject QHPs that do not meet the ACA's anti-discrimination standards.

There is growing evidence that more plans are placing all medications in certain classes on the highest tier and charging patients high co-insurance. A [recent analysis](#) conducted by Avalere found increases between 2014 and 2015 in the number of formulary tiers used by federally facilitated marketplace plans and in the use of cost-sharing for drugs on specialty tiers. The proportion of bronze and silver plans using specialty tier co-insurance greater than 30 percent increased by 14 percent from 2014 to 2015. In five classes used to treat cancer, MS, and HIV, more than one-fifth of all exchange plans are requiring 30 percent co-insurance or higher for all drugs in the class—a significant increase over 2014.

We are concerned that without meaningful review and enforcement by CMS, these trends will continue and become worse, creating greater barriers for patients to access their health care.

Again, we greatly appreciate all you and the rest of the Department are doing to improve the health of all Americans. We thank you for your continued dedication to improving implementation of the ACA so that it meets the needs of patients throughout the country.

Sincerely,

30 for 30 Campaign
Action CF
ADAP Advocacy Association (aaa+)
Adult Congenital Heart Association
Advocates for Responsible Care
African American Health Alliance
AIDS Action Baltimore
AIDS Alabama
AIDS Alliance for Women, Infants, Children,
Youth & Families
AIDS Foundation of Chicago
The AIDS Institute
AIDS Legal Referral Panel
AIDS Project Los Angeles
AIDS United
AIDS Vaccine Advocacy Coalition (AVAC)
Alabaster
Alliance for the Adoption of Innovations in
Medicine (Aimed Alliance)

The ALS Association
Alzheimer's & Dementia Resource Center
American Academy of HIV Medicine
American Association on Health and Disability
American Autoimmune Related Diseases
Association (AARDA)
American Behcet's Disease Association
American Chronic Pain Association, Inc.
American Diabetes Association
American Kidney Fund
American Lung Association
American Society for Metabolic and Bariatric
Surgery
American Society of Bariatric Physicians
The Arc of The United States
Asian & Pacific Islander American Health
Forum
Association of Community Cancer Centers
Association of Nurses in AIDS Care

Behavioral Health & Wellness
Bladder Cancer Advocacy Network
Boley Centers
Brain Injury Association of America
California Chronic Care Coalition
California Hepatitis C Task Force
California Senior Advocates League
Cancer Support Community
Caregiver Action Network
The Cave Institute
Center for Public Policy Priorities
Centro de mi Salud
Citrus Council, National Kidney Foundation of Florida
Coalition for Pulmonary Fibrosis
Columbia CARES
Community Access National Network (CANN)
County of Santa Clara HIP program
Crohn's & Colitis Foundation of America
Delaware HIV Consortium
Dialysis Patient Citizens
Easter Seals
Elder Care Advocacy of Florida
Epilepsy California
Epilepsy Foundation
Epilepsy Foundation Heart of Wisconsin
Epilepsy Foundation New England
Epilepsy Foundation North/Central Illinois, Iowa, Nebraska
Epilepsy Foundation of the Chesapeake Region
Epilepsy Foundation of Florida
Epilepsy Foundation of Greater Chicago
Epilepsy Foundation of Greater Southern Illinois
Epilepsy Foundation of Indiana
Epilepsy Foundation of Kentuckiana
Epilepsy Foundation of Michigan
Epilepsy Foundation of Minnesota
Epilepsy Foundation of Missouri & Kansas
Epilepsy Foundation of Nevada
Epilepsy Foundation of New Jersey
Epilepsy Foundation of Western Ohio
Family Resource Network
Federation of Families for Children's Mental Health - Colorado Chapter
Fight Colorectal Cancer
Florida CHAIN
Gay Men's Health Crisis (GMHC)
GBS/CIDP Foundation International

Georgia AIDS Coalition
GLMA: Health Professionals Advancing LGBT Equality
Global Colon Cancer Association
Global Healthy Living Foundation
Global Liver Institute
HEALS of the South
HealthHIV
Hemophilia Alliance of Maine, Inc.
Hemophilia Association of the Capital Area
Hispanic CREO
HIV Dental Alliance
HIV Medicine Association
HIV Prevention Justice Alliance
HIV/AIDS Services for African Americans in Alaska
Immune Deficiency Foundation
Indiana Rural Health Association
International Foundation for Autoimmune Arthritis
International Myeloma Foundation
Jonah's Just Begun
Kentucky Life Sciences Council
Kidney Cancer Association
Knights of Peter Claver - New Orleans
Lambda Legal
Latino Commission on AIDS
Latinos Salud
Let's Talk About Change
Leukemia & Lymphoma Society
Los Angeles LGBT Center
Louisiana AIDS Advocacy Network
Louisiana Alumni, Sigma Kappa GNO
Louisiana Lifespan Respite Coalition
Louisiana Medicare Checkup Campaign
Lupus Alliance Long Island/Queens
Lupus and Allied Diseases Association, Inc.
Lupus Foundation of America
Lupus Foundation of America, DC/MD/VA Chapter
Lupus Foundation of Arkansas, Inc.
Lupus Foundation of Florida
Lupus Foundation of Northern California
Lupus Foundation of Southern California
Lupus LA
Lupus Research Institute
Lupus Society of Illinois
The Marfan Foundation
The Mastocytosis Society, Inc.

Maxima Home Health LLC
 Medical News - Kentucky
 Mended Hearts of Central Ohio
 Men's Health Network
 Mental Health America
 Mental Health Association of Connecticut
 Michigan Association of Community Mental Health Boards
 Michigan Lupus Foundation
 Minnesota AIDS Project
 Moveable Feast
 NAACP
 Nashville CARES
 The National Alliance to Advance Adolescent Health
 National Alliance for Caregiving
 National Alliance on Mental Illness
 National Alliance on Mental Illness Alabama
 National Alliance on Mental Illness Kentucky
 National Alliance on Mental Illness New Mexico
 National Alliance on Mental Illness North Carolina
 National Alliance on Mental Illness of Ohio
 National Alliance of State & Territorial AIDS Directors
 National Alopecia Areata Foundation
 National Asian Pacific American Families Against Substance Abuse (NAPAFASA)
 National Association of Hepatitis Task Forces
 National Association of Hispanic Nurses/CMS
 National Association of Nutrition and Aging Services Programs (NANASP)
 National Association for Social Workers Texas (NASWTX)
 National Association of State Head Injury Administrators
 National Black Gay Men's Advocacy Coalition
 National Center for Transgender Equality
 National Coalition for LGBT Health
 National Community Pharmacists Association (NCPA)
 National Grange
 National Health Law Program
 National Hemophilia Foundation
 National Hispanic Medical Association
 National Kidney Foundation
 National LGBTQ Task Force
 National Multiple Sclerosis Society
 National Osteoporosis Foundation
 National Patient Advocate Foundation
 National Prostate Cancer Awareness Foundation
 National Psoriasis Foundation
 National Viral Hepatitis Roundtable
 New England Hemophilia Association
 New Jersey Association of Mental Health and Addiction Agencies, Inc.
 New Jersey Mayors Committee on Life Sciences
 Noah's Hope
 Obesity Action Coalition
 The Obesity Society
 Ohio Association of Community Health Centers
 Ohio Association of County Behavioral Health Authorities
 One in Four Chronic Health
 Organize Now
 Ovarian Cancer National Alliance
 Parkinson's Action Network
 Positive Women's Network - USA
 Prescription Assistance Network of Stark County, Inc.
 Prevent Blindness, Ohio Affiliate
 Prevent Cancer Foundation
 Project Inform
 Pulmonary Hypertension Association
 Racial and Ethnic Health Disparities Coalition
 Rene Rodriguez, M.D.
 RetireSafe
 Rio Grande Valley Diabetes Association
 Rush To Live
 Ryan White Medical Providers Coalition
 San Francisco AIDS Foundation
 Scleroderma Foundation
 Services and Advocacy for GLBT Elders (SAGE)
 SisterLove, Inc.
 S.L.E. Lupus Foundation
 Society for Women's Health Research
 Solo Practice
 South Carolina Advocates For Epilepsy
 Southern AIDS Coalition
 Southern HIV/AIDS Strategy Initiative
 Specialty Tiers Coalition of Georgia
 Spina Bifida Association
 The Sturge-Weber Foundation
 Test Positive Aware Network

Texas Healthcare and Bioscience Institute
Thrive Alabama
Treatment Access Expansion Project
United Cerebral Palsy
U.S. Pain Foundation, Inc.
Utah Health Policy Project
Vasculitis Foundation
Veterans Health Council

Vietnam Veterans of America
Virginia Hemophilia Foundation
Visiting Nurse Associations of America
(VNAA)
Women Against Prostate Cancer
WomenHeart: The National Coalition for
Women with Heart Disease
Wound Care Clinic - ESU