

I AM ESSENTIAL

August 19, 2013

The Honorable Kathleen Sebelius
Secretary of Health and Human Services
The Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Prescription Drug Coverage in Alternative Benefit Plans

Dear Secretary Sebelius:

We, the undersigned, representing millions of patients and their families, are committed to implementation of the Affordable Care Act (ACA), and thank you for your ongoing efforts and commitment to ensure timely implementation of the law.

We write to you at this time to voice our extreme disappointment in how prescription drug coverage was addressed in the final rule on essential health benefits for the Alternative Benefit Plans (ABPs). This rule marked a distinct change from what was outlined in the proposed rule and will substantially limit access to prescription medications for some of the most vulnerable patient populations.

Medicaid beneficiaries have historically been able to access all drugs manufactured by companies that participate in the drug rebate program, which has included most medications. The final rule for the Medicaid expansion population radically departs from the proposed rule that appeared to carry forward this historical practice. In the final rule, CMS wrote it needed to issue a clarification and stated that the proposed rule “may have been over-inclusive.” Much to our surprise, the final rule limits drug coverage by requiring plans to cover only the greater of one drug per class or the same number of drugs as contained in each class of drugs in the state selected benchmark.

We are in strong opposition to this approach because it narrows coverage and access to medications for beneficiaries who commonly have chronic medical conditions and few resources. **We urge you to reverse this decision and restore drug coverage for expanded Medicaid plans to include all drugs that participate in the drug rebate program.**

This diminished coverage requirement will provide patients in the expanded Medicaid program with a limited number of drugs, potentially denying them access to the medications prescribed by their doctors and putting their health at risk. Patients should be able to access the medications they need as prescribed by their physicians. If they are not able to access appropriate medications, patients may become ill, increasing healthcare spending in the long run. It is critical that patients access the exact medication prescribed by their provider for successful treatment and health outcomes.

In addition to the formula restrictions, state Medicaid programs can impose *additional* restrictions on drug coverage, including quantity and duration limits, prior authorization requirements, and other utilization management techniques. These mechanisms create even more barriers and limit access to lifesaving treatment.

As states develop their ABPs, we ask that HHS closely review plan adequacy for coverage of prescription drugs and other services that are necessary to meet the needs of patients with chronic conditions and not approve plans that limit coverage. Further, we ask that there be an adequate public opportunity for patient groups to review and comment on plans as they are submitted to HHS. We cannot risk patients facing denials to lifesaving treatment or interruptions in their drug regimens.

We also ask that you closely monitor and report on drug access, denials, and outcomes as the expanded Medicaid program is implemented and beneficiaries utilize the new coverage, and issue a report by July 1, 2014 that details and totals prescription denials. It will be critical to identify any failures of the drug benefit early on, before people's health is unnecessarily jeopardized.

We thank you for your continued leadership in ensuring that Americans will have greater access to quality and affordable health care free from discrimination, but believe the final rule for Alternative Benefit Plans when it comes to prescription drug coverage falls short of these goals.

Thank you very much.

Respectfully,

Academy of Nutrition and Dietetics
AIDS Foundation of Chicago
The AIDS Institute
AIDS Project Los Angeles
Alzheimer's and Dementia Alliance of Wisconsin
American Autoimmune Related Diseases Association
American Lung Association
Association for Behavioral Healthcare
Asthma and Allergy Foundation of America
California Hepatitis C Task Force
California Mental Health Directors Association
Capital Recovery Center
Caregiver Action Network
Comprehensive Life Resources
County Alcohol and Drug Program Administrators Association of California
Dialysis Patient Citizens
Epilepsy Foundation
Epilepsy Foundation of Greater Chicago
Faces & Voices of Recovery
Fresenius Medical Care

GBS-CIDP Foundation International
HealthHIV
Heartland Alliance for Human Needs & Human Rights
The Hemophilia Alliance
Hemophilia Association of the Capital Area
Hemophilia Foundation of Maryland
Hemophilia of North Carolina
International Myeloma Foundation
Latino Commission on AIDS
Lifelong AIDS Alliance
Lupus Alliance Long Island Queens
Lupus Alliance of Upstate New York
Lupus Foundation of America
Lupus Foundation of Florida
Lupus Foundation of Genesee Valley NY, Inc.
Lupus Foundation of Mid and Northern New York
Lupus Foundation of Northern California
Lupus Foundation of Pennsylvania
Lupus Foundation of Southern California
Lupus Research Institute
The Lupus Support Network, Inc.
Marfan Foundation
Massachusetts Association for Mental Health
Mental Health Action
Mental Health America
Mental Health Association in Michigan
Michigan Association of Community Mental Health Boards
Minnesota AIDS Project
National Alliance on Mental Illness
National Alliance on Mental Illness- California
National Alliance on Mental Illness - New York State
National Alliance on Mental Illness – Ohio
National Alliance on Mental Illness - Washington State
National Asian Pacific American Families Against Substance Abuse
National Association of County Behavioral Health and Developmental Disability Directors
National Association of Hepatitis Task Forces
National Association of Social Workers, CA Chapter
National Council for Behavioral Health
National Eczema Association
National Hemophilia Foundation
The National Grange
National Minority Quality Forum
National Multiple Sclerosis Society
National Organization for Rare Disorders
National Psoriasis Foundation
National Viral Hepatitis Roundtable

New England Hemophilia Association
New York State Partners in Policy Making
Parkinson's Action Network
Pulmonary Hypertension Association
Renal Support Network
Rocky Mountain Hemophilia & Bleeding Disorders Association
Scleroderma Foundation
S.L.E. Lupus Foundation
Society for Women's Health Research
Special Education Advocates
US Pain Foundation, Inc.
Veterans Health Council
Virginia Hemophilia Foundation
Western Pennsylvania Chapter of the National Hemophilia Foundation
Yale New Haven Health Hospital

cc: Cindy Mann, Director of the Center for Medicaid and CHIP Services