

September 22, 2012

The Honorable Sylvia Burwell
Secretary of the Department of Health and Human Services
200 Independence Ave SW
Washington, DC 20201

Dear Secretary Burwell:

Thank you for being a champion of the Patient Protection and Affordable Care Act (ACA). We appreciate the work the Department of Health and Human Services has already done to implement this groundbreaking law. Millions of Americans now have access to affordable health insurance that is required to cover important services like maternity care, mental health services, and prescription drugs. There have been vast improvements to the individual and small group health insurance markets, but gaps in coverage remain.

Section 1302 of the ACA requires the Department to periodically review and report to Congress on the status of the Essential Health Benefits (EHB).ⁱ Furthermore, in the preamble of the final rule for EHB, the Department stated that it was “currently reviewing all options for updating EHB in 2016 and anticipate releasing additional guidance in the future on enforcement of EHB requirements and updating EHB.”ⁱⁱ We, the undersigned organizations, write to encourage a thorough and transparent review of the EHB, which relies on the experience of advocates and consumers.

The undersigned organizations urge the Department to begin the process for review, which should be transparent and comprehensive, and must include advocates and stakeholders who can assist the Department in understanding whether the current approach to EHB meets the needs of consumers. The incorporation of data collected on issuer practices and enrollee experience would further enhance the process and results.

Consumers’ ability to access the EHB is closely connected to cost sharing requirements and premium prices. However, a comprehensive review of the EHB should not be constrained by cost concerns. Rather, the Department should identify gaps in the EHB benefit package without considering overall cost before it seeks to balance cost with benefit coverage. The review should also consider whether certain benefit design features of plans, such as arbitrary quantity limits on specific services, have a discriminatory impact.

The review is a critical first step in improving the EHB and ensuring the EHB meets the full intent of the law. We encourage the Department to start this review process now, guided by the following important principles grounded in the law as well as the experience of consumer and advocacy organizations which have identified gaps in current coverage:

1. Congress intended for the EHB to be a comprehensive set of benefits that would correct longstanding coverage gaps in the individual and small group markets, and improve access to health care.
2. The ACA, in recognizing the significant variation in health coverage and medical practice across states and regions, sought to bring greater standardization of benefits to insurance markets through the EHB.
3. The EHB serves as an important anchor of the law and is critical to giving consumers confidence that the plan they purchase will provide a core set of benefits.
4. The EHB must take into account the health care needs of diverse segments of the population including women, children, persons with disabilities, and other groups such as people with chronic conditions.
5. Plan benefit designs, including exclusions, must not have a discriminatory effect on individuals on any basis prohibited by the ACA and its regulations, including race, color, national origin, sex, age, disability, sexual orientation, or gender identity.
6. Each EHB category must be sufficiently and adequately provided, particularly for those categories not fully provided prior to ACA such as mental health and substance use disorder services and habilitative services.
7. If individuals are not able to access treatment for chronic conditions or special health care needs, then the EHB is not meeting the needs of consumers.
8. Guaranteeing access to benefits under the EHB requires effective oversight, including monitoring and evaluation, and enforcement responsibilities that are appropriately assigned at federal and state levels.

We respectfully request that the Department apply these principles as it updates the process for setting the EHB and enforcing those requirements. We can learn from this first year of implementation of the EHB to build a better insurance market for years to come. We look forward to working with the Department on this important review of the Essential Health Benefits.

If you would like additional information, please contact Stephanie Glover (SGlover@nwlc.org) at the National Women's Law Center.

Sincerely,

AIDS Foundation of Chicago
American Academy of Pediatrics
American Association for the Treatment of Opioid Dependence
American Association on Health and Disability

American Cancer Society Cancer Action Network, Inc.
American College of Nurse-Midwives
American Diabetes Association
American Heart Association
American Lung Association
American Nurses Association
American Psychological Association Practice Organization
American Society for Reproductive Medicine
Association of Maternal & Child Health Programs
Autism Speaks
Center for Health Law and Policy Innovation of Harvard Law School
Community Access National Network
Community Catalyst
Cumberland Heights
Dialysis Patient Citizens
Disciples Center for Public Witness (Disciples of Christ)
Epilepsy Foundation
Families USA
Georgetown University Center for Children and Families
Georgia AIDS Coalition
Health & Disability Advocates
Health Care For All – Massachusetts
HIV Medicine Association
Legal Action Center
March of Dimes
Maryland Women's Coalition for Health Care Reform
NARAL Pro-Choice America
National Alliance of State & Territorial AIDS Directors
National Alliance on Mental Illness
National Association for Rural Mental Health
National Association of County Behavioral Health and Developmental Disability Directors
National Association of Pediatric Nurse Practitioners
National Center for Transgender Equality
National Council on Alcoholism and Drug Dependence- Maryland Chapter
National Family Planning and Reproductive Health Association
National Health Law Program
National Latina Institute for Reproductive Health
National Minority AIDS Council
National Partnership for Women & Families
National Women's Health Network
National Women's Law Center
Planned Parenthood Federation of America
Project Inform
RESOLVE: The National Infertility Association
The AIDS Institute
The Arc of the United States

The National Multiple Sclerosis Society
Treatment Communities of America
United Cerebral Palsy
United Spinal Association
Women's Law Project

CC: Michael Adelberg, Director, Insurance Programs Group, CCIIO
Jackie Garner, Acting Deputy Administrator and Director, CCIIO

ⁱ Patient Protection and Affordable Care Act § 1302 (b)(4)(G), codified at 42 U.S.C. 18022(b)(4)(G) (2012).

ⁱⁱ 45 CFR Parts 147, 155, and 156: Patient Protection and Affordable Care Act; Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation; Final Rule (February 25, 2013).