

HIV Health Care Access Working Group

August 27, 2010

Jay Angoff, JD, Director
Office of Consumer Information and Insurance Oversight
Department of Health and Human Services
Attention: OCIO-9994-IFC
P.O. Box 8016
Baltimore, MD 21244-1850

RE: Patient Protection and Affordable Care Act; Requirements for Group Health Plans and Health Insurance Issuers Under the Patient Protection and Affordable Care Act Relating to Preexisting Condition Exclusions, Lifetime and Annual Limits, Rescissions, and Patient Protections; Final Rule and Proposed Rule 75 Federal Register 123 (June 28, 2010)

Mr. Anghoff:

On behalf of the HIV Health Care Access Working Group (HHCAGW), we are writing to express our strong support for the Patient's Bill of Rights interim final regulations. HHCAGW is a coalition of more than 100 national and community-based AIDS service organizations representing HIV medical providers, advocates and people living with HIV/AIDS and providing critical HIV-related health care and support services. The Working Group is actively engaged in efforts to increase early and affordable access to quality, comprehensive care for people living with HIV/AIDS.

For many persons living with HIV, access to private market health insurance is prohibitively expensive, and provisions against covering pre-existing conditions render most policies meaningless. The patient protections codified in the Affordable Care Act will greatly benefit people living with HIV/AIDS to gain access to a broader range of affordable insurance, as well as better coverage. In particular, these protections represent an opportunity to expand access to care for the 50 percent of all those living with HIV who currently lack needed medical care. We strongly support the inclusion of provisions to increase access to insurance options by eliminating exclusions for pre-existing conditions, lifetime limits and the rescission of health care coverage and prohibiting limited benefit plans. These reforms will mean the difference between no coverage and good coverage for people with chronic health conditions, such as HIV/AIDS and viral hepatitis.

Under the Patients' Bill of Rights, insurance companies will be prohibited from denying coverage due to preexisting conditions and any arbitrary rescission of coverage. We strongly support these provisions because they will allow for greater access to care and

prevent discrimination against people living with HIV/AIDS. However, in the near term, the provision concerning preexisting conditions is only applicable to children under the age of 19, with the expansion to all private insurance beneficiaries not occurring until 2014. It is our hope that private insurers will be encouraged to adopt these protections prior to 2014. In addition, the current proposed rule does not prevent insurance companies from excluding coverage of all benefits for a condition, such as HIV/AIDS. We urge you to closely monitor the practices of private insurers in this regard.

The Patients' Bill of Rights also begins to phase out annual limits and prohibits the use of lifetime limits by 2014. This provision will greatly impact those with HIV, since the cost of HIV treatment and lost productivity can reach \$1 million per infection. In addition, many people living with HIV/AIDS suffer from other co-infections or co-morbidities, which can further increase their costs of care and treatment. Under this regulation, individuals will be able to seek care and receive essential health benefits, including prescription drugs, emergency and preventive services, without fears of hitting these limits or having to face a large financial burden for these services.

In developing safeguards to allow choice in the identification of a primary care provider, we strongly urge you to consider the unique needs of people living with HIV disease and the expertise required for appropriate care management. As HIV disease has evolved from a death sentence to a complex chronic disease for those with reliable access to care, a majority of HIV medical providers adapted to meet the needs of their patients with HIV by serving as their primary care provider regardless of specialty training. For people living with HIV/AIDS, an experienced HIV provider will enable improved and cost-effective care and, ultimately, better health outcomes. Therefore, we urge you to ensure that HIV clinicians are included in an insurance plan's network of health care providers. We strongly urge you to support patients with HIV disease maintain appropriate contact with their HIV providers by requiring plans to do one of the following to ensure timely access to HIV clinicians: 1) Allow HIV clinicians regardless of specialty training to serve as designated primary care providers; 2) Create a standing referral to an HIV provider without prior approval or authorization; or, 3) Allow direct access to an HIV provider without a referral.

HHCAWG believes the Patients' Bill of Rights will greatly curtail the discriminatory practices utilized by insurance companies and improve the lives of people living with HIV/AIDS. We strongly support these patient protections, but urge you to consider the aforementioned suggestions.

Thank you for your continued leadership on the implementation of the health reform law and support for people living with HIV/AIDS. We welcome the opportunity to work with you on the implementation of the Patients' Bill of Rights and future regulations. If you have further questions, please contact Laura Hanen, National Alliance of State and Territorial AIDS Directors (lhane@nastad.org) or Andrea Weddle, HIV Medicine Association (aweddle@hivma.org)

Sincerely,

Submitted on behalf of the HIV Health Care Access Working Group Steering Committee,

AIDS Action | AIDS Action Baltimore | AIDS Alliance for Children, Youth & Families | AIDS Foundation of Chicago | The AIDS Institute | AIDS Project Los Angeles | AIDS Treatment Data Network | American Academy of HIV Medicine | Broward House – Ft. Lauderdale | Community Access National Network | Community HIV/AIDS Mobilization Project | Gay Men’s Health Crisis | Harlem United | Health and Disability Advocates | HIV Medicine Association | HIVictorious, Inc. | Housing Works | Moveable Feast | National Alliance of State and Territorial AIDS Directors | National Association of People With AIDS | National Minority AIDS Council | The National Working Positive Coalition | Project Inform | San Francisco AIDS Foundation | South Carolina Campaign to End AIDS | Treatment Access Expansion Project | Treatment Action Group | VillageCare of New York