

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).<sup>i</sup> 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.”<sup>ii</sup> 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](mailto: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

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

<sup>ii</sup> 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).