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August 26, 2010

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Office of Consumer Information and Insurance Oversight

Department of Health and Human Services

Attention: OCIO-9994-IFC

Room 445-G

Hubert H. Humphrey Building

200 Independence Avenue, S.W.

Washington, DC 20201

Subject: HIVMA Comments on Interim Final Regulations for Implementation of Provisions of the Patient Protection and Affordable Care Act Regarding Pre-Existing Condition Exclusions, Lifetime and Annual Limits, Rescissions, and Patient Protection (Ref# OCIO-9994-IFC)

Dear Mr. Anghoff:

The HIV Medicine Association (HIVMA) appreciates the opportunity to comment on the above-referenced proposed rule. HIVMA represents more than 3,800 HIV clinicians and researchers working on the frontlines of the HIV epidemic in communities across the country.

We strongly supported the "Patients' Bill of Rights" provisions of the Patient Protection and Affordable Care Act (ACA), because we have seen firsthand the need for much stronger consumer protections in the private insurance market to prevent discrimination against our patients with HIV disease. We are hopeful that implementation of these important regulations will expand access to affordable, high quality health care coverage through the private health insurance market for individuals with HIV. We urge you to grant serious consideration to our recommendations on these issues in formulating the final rule.

Our comments focus in particular on two areas of concern:

- The importance of ensuring access to HIV clinicians by requiring plans to contract with HIV clinicians and allowing patients to designate an HIV clinician as their primary care provider; and,
- The continued permissibility of categorical exclusions of coverage for specific conditions or diseases.

1) Inclusion of HIV Clinicians in Provider Networks

It is essential that patients living with HIV disease have reliable and streamlined access to an experienced HIV provider. There is ample evidence in the research literature that care delivered by experienced HIV providers regardless of specialty training translates into improved clinical outcomes and the more cost effective delivery of

care.ⁱ In the past, some insurers have excluded HIV clinicians from their provider networks to discourage enrollment of individuals with HIV disease.

We urge you to eliminate these practices by requiring plans to contract with HIV medical providers.

The role of the HIV clinician has evolved with the availability of effective HIV treatment. Persons with HIV infection who have access to care are now surviving to near expected life spans of the general population and developing common conditions associated with aging. With these changes, the majority of HIV physicians have adapted to meet the needs of their patients by managing their primary care and HIV treatment.

We strongly urge you to ensure 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:

- Allow HIV clinicians regardless of specialty training to serve as designated primary care providers;
- Create a standing referral to an HIV provider without prior approval or authorization; or,
- Allow direct access to an HIV provider without a referral.

States such as California have adopted standing referral requirements for HIV patients enrolled in managed care plansⁱⁱ (Arizona and New Jersey have adopted similar policies).

2) Categorical exclusions of coverage for specific conditions or diseases

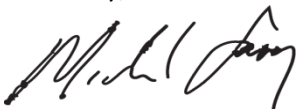
We applaud private insurance market reforms under the ACA that when fully implemented will instill greater fairness and allow more consumers to access adequate, affordable coverage through the private health insurance market. We understand that many of the most critical consumer protections for adults will be phased in over time or do not take effect until 2014 – including essential benefit requirements, guaranteed issue and prohibition of discrimination against individual participants and beneficiaries based on health status. The current proposed rule underscores the importance of those essential protections, in that it explicitly does not prevent a plan or issuer from excluding coverage for all benefits for a condition, such as HIV disease.

We urge you to closely monitor the practices of private insurers in this regard.

We look forward to future issuance of regulations to implement additional consumer protections that will be critical to eliminating insurer discrimination against individuals with serious, chronic conditions, such as HIV disease in 2014.

Thank you for your consideration of our views, and please contact us if we can provide further information. We can be reached through our Executive Director, Andrea Weddle (aweddle@hivma.org or 703-299-0915).

Sincerely,



Michael S. Saag, MD, FIDSA
Chair, HIV Medicine Association

ⁱ HIV Provider Experience and Patient Outcomes: Selected References:

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ⁱⁱ State of California, Department Of Managed Health Care Help Center, Division Of Plan Surveys, Technical Assistance Guide. Accessed online 8/26/2010:
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