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September 21, 2010

The Honorable Kathleen Sebelius
Secretary

U.S. Department of Health and Human Services

Hubert H. Humphrey Building

200 Independence Avenue, SW

Washington, DC 20201

RE: OCIO-9993-IFC: Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Internal Claims and Appeals and External Review Processes under the Patient Protection and Affordable Care Act

Dear Secretary Sebelius:

National Patient Advocate Foundation (NPAF) would like to thank you for the opportunity to submit comments on the Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Internal Claims and Appeals and External Review Processes under the Patient Protection and Affordable Care Act.

NPAF is a non-profit organization dedicated to improving access to healthcare services through both federal and state policy reform. Our mission is to be the voice for millions of patients who have sought care after a diagnosis of a chronic, debilitating or life-threatening illness. The advocacy activities of NPAF are informed and influenced by the experience of patients who receive direct, sustained services from Patient Advocate Foundation (PAF), which provides professional case management assistance to patients. In 2009, PAF resolved 55,384 patient cases and received four million additional inquiries from patients nationally from all 50 states.

NPAF agrees that the external review process claimant filing fee must not exceed \$25.00, and we suggest that the fee be refunded to the claimant if the review is successful. We support the waiver of the fee in the case of an undue financial hardship on the claimant. As such, we request that a clear definition of "undue financial hardship" be included in the final rule.

NPAF believes that patients, especially those who are in an active or advanced stage of their disease, often cannot wait for a decision on an appeal. The 45 day lag time would not appear to be overly burdensome where costs are in the financial reach of a patient who is not experiencing a life threatening disease. However, many of the patients whom PAF serves are dealing with cancer care issues that are immediate and extremely costly. We applaud the inclusion of an expedited review process (in certain circumstances) given the dire circumstances that these patients face. A written statement from the treating physician could confirm the diagnosis and the urgency of the care process.

When patients are engaged in active treatment, the stress and side effects of the treatment often affect their ability to timely honor their medically related liabilities. NPAF supports extending the period of time to request an external review to 180 days, especially if the request is for services previously furnished.

NPAF also believes that the 45 day final decision period is appropriate for routine external reviews, since the interim final rule includes a 72 hour turn around for expedited reviews. However, we do believe that the language needs clarify if the timeframe refers to business days or calendar days. In addition, advanced stage cancer patients are often in need of cutting edge therapy where there is only a narrow window of opportunity. NPAF requests that a definition of “urgent”, which would allow an external appeal to be processed as expedited, be included in the final rule.

We thank you for the opportunity to comment from the patient’s perspective on the rules relating to the status of appeals. We would be pleased to respond to any questions about our recommendations that may arise during the implementation of the PPACA.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Nancy Davenport-Ennis". The signature is written in black ink and is positioned above the printed name.

Nancy Davenport-Ennis
President and Chief Executive Officer

CC:
Steve Miller
Executive Vice President of Regulatory Affairs