Planned Parenthood Federation of America

Planned Parenthood Action Fund

August 1, 2014

VIA ELECTRONIC TRANSMISSION

The Honorable Thomas Perez
U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

The Honorable Sylvia Burwell
U.S. Department of Health and Human Services
200 Independence Ave., S.W.
Washington, D.C. 20201

Sent via email to E-OHPSCA-FAQ.ebsa@dol.gov

Re: FAQs about Affordable Care Act Implementation (Part XIX), Reference-Based Pricing

Dear Secretary Perez and Secretary Burwell:

Planned Parenthood Federation of America ("Planned Parenthood") and Planned Parenthood Action Fund ("the Action Fund") are pleased to submit these comments on the "FAQs about Affordable Care Act Implementation (Part XIX)" (herein, referred to as "FAQ"), which was jointly released by the Departments of Labor (DOL), Health and Human Services (HHS), and the Treasury (collectively, the Departments) on May 4, 2014. As a trusted women's health care provider and advocate, Planned Parenthood supports the Departments' commitment to seeking input from stakeholders as it considers standards that health plans using reference-based pricing must meet to ensure that individuals have meaningful access to care and quality providers.

Planned Parenthood is the nation's leading women's health care provider and advocate and a trusted, nonprofit source of primary and preventive care for women, men, and young people in communities across the United States (U.S.). Each year, Planned Parenthood's more than 700 health centers provide affordable birth control, lifesaving cancer screenings, testing and treatment for sexually transmitted diseases (STDs), and other essential care to nearly three million patients. The vast majority of Planned Parenthood patients have incomes at or below 150 percent of the Federal Poverty Level ("FPL"). One in five women in the U.S. has visited a Planned Parenthood health center.

We share the Departments' concern that reference-based pricing may be a "subterfuge for imposition of otherwise prohibited limitations on coverage" without ensuring access to quality care and a sufficient network of providers. Accordingly, we strongly urge the Departments not to permit any health plans to engage in reference-based pricing and ensure all plans reimburse providers fairly for furnished care.

However, if the Department continues to permit reference-based pricing for large group and self-insured group health plans, we recommend the Department adopt clear standards specifying that reference-based pricing structures may not be used to limit coverage, restrict access to covered items or services, or discriminate against or limit access to certain provider types. Indeed, the Department should reinforce that large group and self-insured plans must still meet any applicable requirements related to network adequacy and must demonstrate that individuals have meaningful access to quality coverage, including a clear ability to access needed services without exceeding the cost-sharing limits established under the law. Likewise, we strongly urge the Departments to prohibit large group and self-insured plans from engaging in reference-based pricing for preventive health services, including women's preventive services, since those services are subject to explicit protections that were designed to ensure individuals do not face any out-of-pocket expenses in accessing life-saving, preventive care. Moreover, it is important that the Department clarify that any allowance for reference-based pricing does not apply to Exchange plans (i.e. qualified health plans), which are subject to separate coverage protections that would prohibit the application of reference-based pricing.

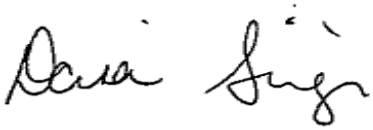
Throughout the health care reform debate, Congress established its intent to ensure access to a broad range of health care providers and services, including women's health services and providers. The ACA contains several provisions designed to enhance health care access for women, such as the elimination of gender rating, direct access to OB/GYN practitioners, access to women's health providers in Marketplace plans through the essential community provider (ECP) provision, and coverage of women's preventive services without cost sharing. These provisions were designed to remedy the longstanding health care access barriers women have faced and to guarantee that women have access to the health care services they need from the providers they trust.

However, without sufficient safeguards, a reference-based pricing structure could undermine these critical provisions by limiting a woman's ability to access services from trusted women's health providers in her community. It is well-known that low reimbursement rates contribute to low provider participation. Insufficient reference-based reimbursement structures (including those that may not adequately cover the cost of administering or dispensing drugs and devices in a clinical setting) could significantly decrease health care access by forcing women to choose between accessing the care they need from the providers in their communities and avoiding significant out-of-pocket costs. Additionally, reference-based pricing would be inappropriate for women's preventive health services or any preventive service given that that law clearly prohibits health plans from imposing cost-sharing for preventive care outlined in Section 2703 of the Public Health Service Act.

Therefore, if the Department does not prohibit all health plans from using reference-based pricing that would undermine the cost-sharing protections of the law, we urge the Departments to: 1) clarify that large group and self-insured plans may not use reference-based pricing for no-cost-sharing services, like women's preventive health services; 2) clarify that Exchange health plans may not use reference-based pricing; 3) require large group and self-insured health plans that use reference-based pricing to make sure there is an adequate network of providers that agree to the reference price and make available an exceptions process so that consumers can receive needed care, in a timely manner and at no additional cost, from a provider outside the reference price system; and 4) ensure reference-based pricing structures adequately reimburse providers for the cost of care. These protective measures will help ensure women have meaningful access to providers that can meet their unique health care needs and obtain critical women's health care services without barrier in a timely manner. Indeed, without limitation, reference-based pricing could undermine a central goal of the ACA to improve women's access to quality, affordable health care.

Thank you for the opportunity to comment on Question 4 of the FAQs about Affordable Care Act Implementation (Part XIX). If you have any questions, please do not hesitate to contact me at 202-973-4800.

Respectfully submitted,



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