

# I AM (Still) ESSENTIAL

April 30, 2015

The Honorable Sylvia Mathews Burwell  
Secretary of Health and Human Services  
200 Independence Avenue SW  
Washington, D.C. 20201

Re: Enforcement of Out of Pocket Maximums for 2016 Qualified Health Plans

Dear Madame Secretary:

We are writing on behalf of the “I Am (Still) Essential” Coalition, a broad group of patient and community organizations representing millions of patients and their families. Over the past several years, we have worked to ensure implementation of the Affordable Care Act (ACA) meets the needs of patients, especially those living with chronic conditions, so that they can receive quality and affordable health care. We congratulate you and your colleagues on a very successful enrollment period and now look forward to working with you as you begin to review the 2016 Qualified Health Plans (QHPs). As you begin that process, **we want to ensure that the limitations on out-of-pocket maximum requirements that were established in the Notice of Benefit and Payment Parameters for 2016 (NBPP) are strictly maintained.**

The out-of-pocket maximum is a key consumer protection included in the ACA and we are confident that HHS shares our commitment to defend against its erosion and keep this important patient protection strong. Having this protection serves as a meaningful backstop against catastrophic out-of-pocket costs for insured families and individuals.

We are concerned that some may not support the Administration’s announced policy regarding out-of-pocket protection for individuals enrolled in a family plan and may seek to loosen the requirements. In light of these concerns, **we wish to convey our strong endorsement of the clarification in Section 156.130 of the final NBPP that an individual enrolled in a family plan will not be required to pay more than the individual out-of-pocket maximum for his or her care (versus the higher family out-of-pocket maximum). We urge you to enforce that policy as you begin to review the 2016 plans.**

In 2016, the individual out-of-pocket maximum will be \$6,850 and the family out-of-pocket maximum will be \$13,700. This policy recognizes that asking any insured individual to pay \$13,700 out-of-pocket for his or her medical care would be incredibly burdensome and therefore would effectively punish people who purchased family coverage.

The policy in the final rule appropriately protects individuals from exorbitant out-of-pocket spending associated with a single episode of care or course of treatment, as was the intent of the ACA. It seems to go against principles of fairness that an individual's statutory out-of-pocket protection could be weakened solely by the selection of a particular type of coverage. The policy clarification ensures that individuals will not have to keep paying out-of-pocket for services, beyond the individual out of pocket maximum (potentially requiring coinsurance of 50% of total costs or more) until the higher family maximum is reached (\$13,700 in 2016). It also guards against the troubling misapplication of the ACA's family out-of-pocket maximum as a means for circumventing the individual out-of-pocket maximum, as opposed to a protection for those families who experience the misfortune of having multiple members with high costs in a single year.

**We applaud the Administration's clarification and urge you to ensure full compliance by OHPs beginning in 2016, consistent with the final NBPP.**

Thank you very much. We appreciate this opportunity to provide our insight and perspective and welcome the opportunity to meet to further discuss our concerns.

Sincerely,

Carl Schmid  
Deputy Executive Director  
The AIDS Institute

Andrew Sperling  
Director of Federal Legislative Advocacy  
National Alliance Mental Illness

Angela Ostrom  
Chief Operating Officer & Vice President Public Policy  
Epilepsy Foundation

cc: Kevin Counihan, Marketplace CEO/CMS