May 15, 2015

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

Re: Adequate Review of 2016 Qualified Health Plans

Dear Madame Secretary:

We, the undersigned 219 patient and community organizations representing millions of patients and their families, remain dedicated to the successful implementation of the Affordable Care Act (ACA). With the close of the second open enrollment period, millions of Americans now have gained health coverage and the number of uninsured in the country has dramatically decreased. As you begin to review the Qualified Health Plans (QHPs) for 2016, we want to ensure that the many positive patient protections that were included in the Notice of Benefit and Payment Parameters for 2016 and the Letter to Issuers are adhered to and strictly enforced.

As we have detailed to you in the past, many patients have had troubling experiences with some Qualified Health Plans (QHPs). In particular, patients living with chronic conditions have found that some plans offer limited benefits, high cost-sharing and discriminatory plan designs, and lack of transparency. We are very pleased that beginning in 2016, you will require plans to address some of these barriers with new transparency and exceptions provisions. Having accurate, complete, and up-to-date lists of drugs and providers that are easily accessible to patients will help them select the plan that best meets their needs. Plans must also disclose any restrictions, including prior authorization, step therapy, and quantity limits for covered medications. The added exceptions processes will help patients access medically necessary medications prescribed by their providers. The Centers for Medicare and Medicaid Services (CMS) has also stated that plans cannot remove drugs from their formularies mid-year unless it is due to the availability of the drug.

In addition, CMS has stated that it will review plans for adequate drug coverage and discriminatory plan design. CMS has stated in the past that it would conduct these reviews. However, the growing number of plans engaging in discriminatory practices is evidence that thorough reviews have not taken place. In the Letter to Issuers, CMS cautions issuers from discouraging enrollment of individuals with chronic health needs and provides examples of discriminatory plan designs. One example is “if an issuer places most or all drugs that treat a specific condition on the highest cost tiers, that plan design might effectively discriminate against, or discourages enrollment by, individuals who have those chronic conditions.”

In order to identify discriminatory plan designs, CMS states it will conduct outlier analysis on plan cost sharing, including co-payments and co-insurance, and total out of pocket costs
associated with standard treatment protocols for specific conditions. It will also review any medical management techniques, such as prior authorization and/or step therapy, to ensure they are based on clinical guidance, and analyze formularies to ensure drug coverage is consistent with treatment guidelines for certain conditions.

We strongly urge you to ensure that CMS fulfills its duties and adequately reviews the 2016 plans in accordance with the above stated requirements and reject QHPs that do not meet the ACA’s anti-discrimination standards.

There is growing evidence that more plans are placing all medications in certain classes on the highest tier and charging patients high co-insurance. A recent analysis conducted by Avalere found increases between 2014 and 2015 in the number of formulary tiers used by federally facilitated marketplace plans and in the use of cost-sharing for drugs on specialty tiers. The proportion of bronze and silver plans using specialty tier co-insurance greater than 30 percent increased by 14 percent from 2014 to 2015. In five classes used to treat cancer, MS, and HIV, more than one-fifth of all exchange plans are requiring 30 percent co-insurance or higher for all drugs in the class—a significant increase over 2014.

We are concerned that without meaningful review and enforcement by CMS, these trends will continue and become worse, creating greater barriers for patients to access their health care.

Again, we greatly appreciate all you and the rest of the Department are doing to improve the health of all Americans. We thank you for your continued dedication to improving implementation of the ACA so that it meets the needs of patients throughout the country.

Sincerely,

30 for 30 Campaign
Action CF
ADAP Advocacy Association (aaa+)
Adult Congenital Heart Association
Advocates for Responsible Care
African American Health Alliance
AIDS Action Baltimore
AIDS Alabama
AIDS Alliance for Women, Infants, Children, Youth & Families
AIDS Foundation of Chicago
The AIDS Institute
AIDS Legal Referral Panel
AIDS Project Los Angeles
AIDS United
AIDS Vaccine Advocacy Coalition (AVAC)
Alabaster
Alliance for the Adoption of Innovations in Medicine (Aimed Alliance)

The ALS Association
Alzheimer's & Dementia Resource Center
American Academy of HIV Medicine
American Association on Health and Disability
American Autoimmune Related Diseases Association (AARDA)
American Behcet's Disease Association
American Chronic Pain Association, Inc.
American Diabetes Association
American Kidney Fund
American Lung Association
American Society for Metabolic and Bariatric Surgery
American Society of Bariatric Physicians
The Arc of The United States
Asian & Pacific Islander American Health Forum
Association of Community Cancer Centers
Association of Nurses in AIDS Care
Behavioral Health & Wellness
Bladder Cancer Advocacy Network
Boley Centers
Brain Injury Association of America
California Chronic Care Coalition
California Hepatitis C Task Force
California Senior Advocates League
Cancer Support Community
Caregiver Action Network
The Cave Institute
Center for Public Policy Priorities
Centro de mi Salud
Citrus Council, National Kidney Foundation of Florida
Coalition for Pulmonary Fibrosis
Columbia CARES
Community Access National Network (CANN)
County of Santa Clara HIP program
Crohn's & Colitis Foundation of America
Delaware HIV Consortium
Dialysis Patient Citizens
Easter Seals
Elder Care Advocacy of Florida
Epilepsy California
Epilepsy Foundation
Epilepsy Foundation Heart of Wisconsin
Epilepsy Foundation New England
Epilepsy Foundation North/Central Illinois, Iowa, Nebraska
Epilepsy Foundation of the Chesapeake Region
Epilepsy Foundation of Florida
Epilepsy Foundation of Greater Chicago
Epilepsy Foundation of Greater Southern Illinois
Epilepsy Foundation of Indiana
Epilepsy Foundation of Kentuckiana
Epilepsy Foundation of Michigan
Epilepsy Foundation of Minnesota
Epilepsy Foundation of Missouri & Kansas
Epilepsy Foundation of Nevada
Epilepsy Foundation of New Jersey
Epilepsy Foundation of Western Ohio
Family Resource Network
Federation of Families for Children's Mental Health - Colorado Chapter
Fight Colorectal Cancer
Florida CHAIN
Gay Men's Health Crisis (GMHC)
GBS/CIDP Foundation International
Georgia AIDS Coalition
GLMA: Health Professionals Advancing LGBT Equality
Global Colon Cancer Association
Global Healthy Living Foundation
Global Liver Institute
HEALS of the South
HealthHIV
Hemophilia Alliance of Maine, Inc.
Hemophilia Association of the Capital Area
Hispanic CREO
HIV Dental Alliance
HIV Medicine Association
HIV Prevention Justice Alliance
HIV/AIDS Services for African Americans in Alaska
Immune Deficiency Foundation
Indiana Rural Health Association
International Foundation for Autoimmune Arthritis
International Myeloma Foundation
Jonah's Just Begun
Kentucky Life Sciences Council
Kidney Cancer Association
Knights of Peter Claver - New Orleans
Lambda Legal
Latino Commission on AIDS
Latinos Salud
Let's Talk About Change
Leukemia & Lymphoma Society
Los Angeles LGBT Center
Louisiana AIDS Advocacy Network
Louisiana Alumni, Sigma Kappa GNO
Louisiana Lifespan Respite Coalition
Louisiana Medicare Checkup Campaign
Lupus Alliance Long Island/Queens
Lupus and Allied Diseases Association, Inc.
Lupus Foundation of America
Lupus Foundation of America, DC/MD/VA Chapter
Lupus Foundation of Arkansas, Inc.
Lupus Foundation of Florida
Lupus Foundation of Northern California
Lupus Foundation of Southern California
Lupus LA
Lupus Research Institute
Lupus Society of Illinois
The Marfan Foundation
The Mastocytosis Society, Inc.
Maxima Home Health LLC
Medical News - Kentucky
Mended Hearts of Central Ohio
Men's Health Network
Mental Health America
Mental Health Association of Connecticut
Michigan Association of Community Mental Health Boards
Michigan Lupus Foundation
Minnesota AIDS Project
Moveable Feast
NAACP
Nashville CARES
The National Alliance to Advance Adolescent Health
National Alliance for Caregiving
National Alliance on Mental Illness
National Alliance on Mental Illness Alabama
National Alliance on Mental Illness Kentucky
National Alliance on Mental Illness New Mexico
National Alliance on Mental Illness North Carolina
National Alliance on Mental Illness of Ohio
National Alliance of State & Territorial AIDS Directors
National Alopecia Areata Foundation
National Asian Pacific American Families Against Substance Abuse (NAPAFASA)
National Association of Hepatitis Task Forces
National Association of Hispanic Nurses/CMS
National Association of Nutrition and Aging Services Programs (NANASP)
National Association for Social Workers Texas (NASWTX)
National Association of State Head Injury Administrators
National Black Gay Men's Advocacy Coalition
National Center for Transgender Equality
National Coalition for LGBT Health
National Community Pharmacists Association (NCPA)
National Grange
National Health Law Program
National Hemophilia Foundation
National Hispanic Medical Association
National Kidney Foundation
National LGBTQ Task Force
National Multiple Sclerosis Society
National Osteoporosis Foundation
National Patient Advocate Foundation
National Prostate Cancer Awareness Foundation
National Psoriasis Foundation
National Viral Hepatitis Roundtable
New England Hemophilia Association
New Jersey Association of Mental Health and Addiction Agencies, Inc.
New Jersey Mayors Committee on Life Sciences
Noah's Hope
Obesity Action Coalition
The Obesity Society
Ohio Association of Community Health Centers
Ohio Association of County Behavioral Health Authorities
One in Four Chronic Health
Organize Now
Ovarian Cancer National Alliance
Parkinson's Action Network
Positive Women's Network - USA
Prescription Assistance Network of Stark County, Inc.
Prevent Blindness, Ohio Affiliate
Prevent Cancer Foundation
Project Inform
Pulmonary Hypertension Association
Racial and Ethnic Health Disparities Coalition
Rene Rodriguez, M.D.
RetireSafe
Rio Grande Valley Diabetes Association
Rush To Live
Ryan White Medical Providers Coalition
San Francisco AIDS Foundation
Scleroderma Foundation
Services and Advocacy for GLBT Elders (SAGE)
SisterLove, Inc.
S.L.E. Lupus Foundation
Society for Women's Health Research
Solo Practice
South Carolina Advocates For Epilepsy
Southern AIDS Coalition
Southern HIV/AIDS Strategy Initiative
Specialty Tiers Coalition of Georgia
Spina Bifida Association
The Sturge-Weber Foundation
Test Positive Aware Network
Texas Healthcare and Bioscience Institute
Thrive Alabama
Treatment Access Expansion Project
United Cerebral Palsy
U.S. Pain Foundation, Inc.
Utah Health Policy Project
Vasculitis Foundation
Veterans Health Council

Vietnam Veterans of America
Virginia Hemophilia Foundation
Visiting Nurse Associations of America (VNAA)
Women Against Prostate Cancer
WomenHeart: The National Coalition for Women with Heart Disease
Wound Care Clinic - ESU