

I AM (Still) ESSENTIAL

The Honorable Fred Upton
Chairman
Committee on Energy & Commerce
U.S. House of Representatives
Washington DC 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy & Commerce
U.S. House of Representatives
Washington DC 20515

The Honorable Paul Ryan
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington DC 20515

The Honorable Sander Levin
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington DC 20515

The Honorable John Kline
Chairman
Committee on Education and the Workforce
U.S. House of Representatives
Washington DC 20515

The Honorable Bobby Scott
Ranking Member
Committee on Education and the Workforce
U.S. House of Representatives
Washington DC 20515

September 17, 2015

Re: Support for Maximum Out-of-Pocket Cost-Sharing Limits

Dear Chairmen Upton, Ryan, and Kline and Ranking Members Pallone, Levin and Scott:

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 they can receive quality and affordable health care.

We write to express our strong support of CCIIO’s enforcement of the ACA requirements on maximum out-of-pocket limits for cost-sharing for plan year 2016.

The out-of-pocket maximum is a key consumer protection included in the ACA and we must keep this important patient protection strong because it serves as a meaningful backstop against catastrophic out-of-pocket costs for insured families and individuals.

We wish to convey our strong endorsement of the clarification in the final 2016 Notice of Benefit and Payment Parameters (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 (and not the higher family out-of-pocket maximum). We also strongly support the additional clarification in

the May 26, 2015 FAQ jointly issued by the Departments of Labor, Health and Human Services (HHS), and the Treasury that stated that the individual out-of-pocket maximum applies to individuals in family plans who have any type of non-grandfathered insurance and is not limited to qualified health plans (QHPs).

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. The patient community has strongly advocated for full compliance by all non-grandfathered health plans beginning in 2016, consistent with the final NBPP and the May 26, 2015 FAQ.

The HHS interpretation of ACA's annual out-of-pocket limits also best accords with the statutory language. ACA section 1302(c) specifically provides that annual cost-sharing for self-only coverage or coverage other than self-only coverage "shall not exceed the dollar amounts [set for high-deductible health plans] ... for self-only and family coverage, respectively." This means that for the 2016 plan year, the cost-sharing incurred under a health plan shall not exceed \$6,850 for "self-only" coverage and shall not exceed \$13,700 for "other coverage." The statute thus sets both a limit on an individual's cost sharing and a further limit on the family's total cost-sharing. Therefore, HHS's interpretation of ACA Section 1302(c) is faithful to the statute's language and central to its goal of protecting individuals and families from incurring excessive out-of-pocket costs over the course of a year. Moreover, HHS adopted this interpretation through full notice and comment rulemaking. During that process many stakeholders, including our organizations and fellow patient groups, voiced support for HHS' interpretation.

The administration's interpretation is a significant protection that not only applies to QHPs offered in the marketplaces, but (under PHS Act § 2707, which extends the out-of-pocket limits in ACA § 1302(c) to additional plans) to all non-grandfathered health plans, including large group health plans. We fought hard to obtain that protection and we look forward to seeing it enforced.

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

Angela Ostrom
COO and VP Public Policy
Epilepsy Foundation

Andrew Sperling
Director of Federal Legislative Advocacy
National Alliance on Mental Illness

cc: The Honorable Thomas E. Perez
Secretary of Labor
200 Constitution Avenue, NW
Washington, DC 20210

The Honorable Jacob Lew
Secretary of Treasury
Department of the Treasury
1500 Pennsylvania Ave.
Washington, DC 20220

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