

COALITION FOR WHOLE HEALTH

October 4, 2010

Jay Angoff
Office of Consumer Information and Insurance Oversight
Department of Health and Human Services
Attention: OCHIO-9989-NC
P.O. Box 8010
Baltimore, MD 21244-8010

RE: Planning and Establishment of State-Level Exchanges: Request for Comments Regarding Exchange-Related Provisions in Title I of the Patient Protection and Affordable Care Act

Dear Mr. Angoff:

Thank you for this opportunity to provide comments regarding implementation of the health insurance Exchange-related provisions of the Patient Protection and Affordable Care Act (ACA). On behalf of the Coalition for Whole Health, a coalition of national organizations advocating for improved coverage for and access to mental health (MH) and substance use disorder (SUD) prevention, treatment, rehabilitation, and recovery services, we strongly support the goals of healthcare reform to ensure that all Americans have access to high quality, affordable health care, including mental health and addiction care. We appreciate the opportunity to submit comments regarding the Exchange-related provisions of the ACA.

Title 1 of the ACA expands access to health insurance through the establishment of State-level health insurance Exchanges. The Exchanges are central to health insurance reform and, as the key mechanism in the ACA for improving access to affordable, quality coverage, are one of the new law's most important components. Therefore, the ultimate success of reform depends in a large part on the successful development and implementation of the Exchanges. As the Department of Health and Human Services (the Department) works to implement the Exchanges, the undersigned organizations urge you to ensure that the Exchanges address the following:

1. Explicitly recognize and enforce the essential health benefits requirements of the Exchanges. This includes the requirement that comprehensive mental health and substance use disorder benefits, at parity with medical/surgical benefits, be covered by all plans participating in the Exchanges.
2. Enforce strong consumer protections for qualified health plan enrollees to ensure that individuals can easily obtain access to the type, level, and duration of care they need. Determinations about who needs what services, levels of care, and lengths of stay must be made by professionals treating the patient, and medical management tools cannot be used inappropriately to deny needed care. Exchanges should also enforce strong transparency requirements to ensure that criteria and reasons for denial of care are disclosed.

3. Ensure that coverage is easily accessible for those eligible to receive coverage through the Exchange, and that the Navigator programs are sufficiently funded and staffed to facilitate the enrollment process for those individuals for whom the process may be more burdensome and those transferring between Medicaid eligibility and the Exchanges.
4. Ensure a strong outreach and education component, targeted to the public, eligible employers, and service providers to ensure sufficient access to coverage and benefits.
5. Ensure that governing boards and other advisory bodies tasked with developing and administering the Exchanges include individuals with expertise regarding the unique needs of individuals with mental health and/or substance use disorders. In particular, administrators of State and federal substance use disorder and mental health programs should be included in the development and management of the Exchanges.
6. Develop the Exchanges in a way that easily facilitates and encourages the participation of large employer plans, if States elect to include issuers of health insurance coverage in the large group market beginning in 2017.

1. The need for explicit recognition and enforcement of the essential health benefits requirements of the Exchanges. This includes the requirement that comprehensive mental health and substance use disorder benefits, at parity with medical/surgical benefits, be covered by all plans participating in the Exchanges.

We are extremely pleased that the ACA requires an essential benefits package for all health plans in the individual and small group markets, and that all such plans will be required to cover mental health and substance use disorder services, at parity with medical/surgical services, as essential benefits. These important reforms will both improve the health of millions of Americans and their families and save the health care system many millions of dollars.

As you move forward with implementation, we ask that you make clear that the essential benefits package is a central component of the Exchanges, and make enforcement of benefits requirements a priority. At this early stage of development, we ask that the Department make clear to States and health insurance plans that the ACA requires a robust benefits package for mental health and substance use disorders that includes the full range of MH/SUD prevention, early intervention, treatment, rehabilitative and recovery support services, and that limits on benefits be no more restrictive than those allowed under the *Wellstone/Domenici Mental Health Parity and Addiction Equity Act of 2008* and that law's corresponding regulations.

In addition, we ask the Department to develop strong enforcement mechanisms to ensure that all qualified health plans meet the essential health benefits and MH/SUD parity requirements.

2. Enforce strong consumer protections for qualified health plan enrollees to ensure that individuals can easily obtain access to the type, level, and duration of care they need.

We are also pleased that the ACA requires health insurance Exchanges to ensure that participating health plans meet a number of critically important consumer protection requirements. As you move forward with designing the Exchanges, we ask that the strongest possible consumer protections be enforced. Specifically, it is critically important that determinations about who needs what services, levels of care, and lengths of stay be made by treatment professionals that have met with the patient, and medical management tools such as utilization review, criteria for review and approval of evidence-based treatment services, preferred provider networks, and preauthorization be used appropriately and not be used to deny needed care. The medical management criteria and utilization review tools should also be made available in a transparent manner to service providers to ensure patient access to appropriate care.

Exchanges should also enforce strong transparency requirements to ensure that criteria and reasons for denial of care are disclosed and subject to a meaningful, independent review process that includes examination of plan benefit utilization patterns and enables individuals to effectively challenge a denial.

3. Ensure that coverage is easily accessible for those eligible to receive coverage through the Exchange, and that the Navigator programs are sufficiently funded and staffed to facilitate the enrollment process for those individuals for whom the process may be more burdensome and those transferring between Medicaid eligibility and the Exchanges.

The ACA requires the Exchanges to establish and maintain certain procedures for enrolling eligible individuals into a qualified health plan. The Exchanges should develop strong enrollment facilitation tools and procedures to ensure that all who are eligible to participate in the Exchanges are able to easily access coverage. This is especially important for individuals with mental health and/or substance use disorders, since they are more likely to have difficulties navigating a complicated system.

In developing the Exchanges, we urge the Department to work to ensure that coverage is easily accessible and that all necessary tools are in place to facilitate enrollment. The Navigator programs should include training on working with diverse populations with diverse health needs, including those with MH/SUD-related issues. Navigators should receive specific training and work closely with consumer groups to ensure that individuals with chronic health conditions, including MH/SUD conditions, are connected to health insurance coverage that is appropriate for their needs.

In addition, individuals with untreated mental health and/or substance use disorders may be less likely to have stable, long-term employment and are more likely to be involved in the criminal justice system. Therefore, we urge the Department to ensure that the Exchanges be designed with attention paid to those who may be uninsured, transferring between private and public health insurance, or transitioning out of the criminal justice system. In particular, we urge the

Department to encourage State Medicaid programs to utilize the presumptive eligibility option to allow certain qualified providers to grant short-term eligibility and receive federally matched Medicaid reimbursement for care provided to individuals who appear Medicaid eligible.

4. Ensure a strong outreach and education component to implementation and ongoing administration of the Exchanges, targeted to the public, eligible employers, and service providers to ensure sufficient access to coverage and benefits.

Successful implementation of the Exchanges will require a strong outreach and education component to ensure that eligible individuals and employers understand how to access coverage and services. Successful implementation will also require strong outreach and education directed towards health providers, including providers of MH and/or SUD services, to ensure that they understand how to help patients access coverage and care and identify violations of their rights as consumers.

In addition, it is important for Exchanges to partner closely with healthcare providers and other community-based organizations and service providers to identify the uninsured and facilitate their enrollment into appropriate health coverage.

5. Ensure that governing boards and others tasked with developing and administering the Exchanges include individuals with expertise regarding the unique needs of individuals with mental health and/or substance use disorders. In particular, administrators of State and federal substance use disorder and mental health programs should be included in the development and management of the Exchanges.

As States and the Department of HHS consider the governance structures, requirements, and composition of bodies governing and advising the Exchanges, we urge the inclusion of State, federal, and nongovernmental experts, including MH and SUD experts.

The governing boards of each State-based health insurance Exchange, regardless of whether the Exchange is governed by a State agency or non-profit organization, should include individuals with expertise regarding the unique needs of individuals with mental health and/or substance use disorders. Specifically, we ask that the governing membership of each State-based Exchange include administrators of State substance use disorder and mental health agencies. We ask that substance use disorder and mental health administrators also be consulted in the development and design of the Exchanges in their State.

We also ask that the appropriate federal administrators and other experts be included in the development and governance of the Exchanges administered federally, including those with expertise regarding the unique needs of individuals with mental health and substance use disorders. Specifically, we urge the inclusion of the Administrator of the Substance Abuse and Mental Health Services Administration (SAMHSA) and other MH and SUD experts on the governing membership of the federally administered Exchanges. We also ask that representatives from SAMHSA and other federal agencies with addiction and/or mental health related expertise be consulted in the development and design of federally administered Exchanges.

6. Develop the Exchanges in a way that easily facilitates and encourages the participation of large employer plans, if States elect to include issuers of health insurance coverage in the large group market beginning in 2017.

The ACA allows States to open the Exchanges to the large group insurance market beginning in 2017. We believe that the goals of the ACA to foster competition, lower costs, and ensure strong patient and consumer protections will be best met by large, effectively managed Exchanges that successfully pool risk and work for the benefit of enrollees. Therefore, we urge the Department to ensure the Exchanges develop in a way that encourages large group health plans to participate when they become eligible to do so, with the ultimate goal of ensuring the strong consumer protections and health benefit requirements apply to all plans in the individual, small, and large group markets.

Thank you again for the opportunity to provide comments on the planning and establishment of health insurance Exchanges under the ACA. We appreciate your careful consideration and look forward to working with you further on the development of the Exchanges and related provisions. Please contact us if you have any questions or if we can be of further assistance on this matter.

Sincerely,

American Association for Marriage and Family Therapy
American Foundation for Suicide Prevention/SPAN USA
American Group Psychotherapy Association
American Orthopsychiatric Association
American Society of Addiction Medicine
Anxiety Disorders Association of America
Association for Ambulatory Behavioral Healthcare
Bazelon Center for Mental Health Law
Clinical Social Work Association
Depression and Bipolar Support Alliance (DBSA)
Faces & Voices of Recovery
Hazelden
Legal Action Center
Mental Health America
NAADAC, The Association for Addiction Professionals
National African American Drug Policy Coalition, Inc.
National Alliance on Mental Illness
National Association of Addiction Treatment Providers (NAATP)
National Association of County Behavioral Health and Developmental Disabilities Directors
National Association of State Alcohol and Drug Abuse Directors
National Association of State Mental Health Program Directors
National Council for Community Behavioral Healthcare
State Associations of Addiction Services
TeenScreen National Center for Mental Health Checkups
Therapeutic Communities of America