HIV Health Care Access Working Group

February 10, 2014

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201
RE: Ryan White Program Payment of Qualified Health Plan Premiums

Dear Secretary Sebelius:

We strongly urge the Centers for Medicare and Medicaid Services (CMS) to take regulatory action to require that Qualified Health Plans (QHPs) accept third-party payment of premiums from the Ryan White Program/AIDS Drug Assistance Program (ADAP) on behalf of qualified low-income clients.

Efforts to resolve this issue directly with issuers – including citing Health Resources and Services Administration (HRSA) guidance explicitly allowing and encouraging Ryan White Program insurance assistance programs – have been unsuccessful.¹ We appreciate recent CMS guidance encouraging issuers to accept Ryan White Program payments on behalf of clients; however, we believe swift federal regulatory action requiring acceptance of Ryan White Program payments is needed.

As you know, Blue Cross and Blue Shield plans offering QHPs in Louisiana (Blue Cross and Blue Shield of Louisiana and HMO of Louisiana, Inc.) and North Dakota (Blue Cross and Blue Shield of North Dakota) have refused to accept premium payments from Ryan White Program/ADAP insurance purchasing programs. Plan policies that restrict these health care access programs from assisting eligible low-income clients from purchasing QHPs will bar many people living with HIV from coverage and run counter to the access and non-discrimination goals of the ACA. In Louisiana, the change in policy of Blue Cross and Blue Shield of Louisiana to refuse third-party payments from the Ryan White Program/ADAP has resulted in hundreds of clients losing access to coverage through that plan. Without explicit regulatory action from CMS requiring plans to accept Ryan White Program payments, this alarming trend will continue.

Not only does limiting access to coverage for this population jeopardize access to vital drug regimens and the care and treatment necessary for them to stay healthy; but we believe that this policy is in direct violation of the ACA’s anti-discrimination mandates as well as other federal

¹ See HRSA/HAB policy clarification notice (PCN) #13-05 issued on September 13, 2013 (noting “RWHAP [Ryan White HIV/AIDS Program] funds may be used to help clients purchase and maintain health insurance, if cost-effective and in accordance with RWHAP policy.”). We understand that CMS has recently issued guidance clarifying that plans are allowed to accept Ryan White Program payments, and encouraging them to do so.
laws that protect the rights of individuals living with HIV and other disabling health conditions.²

Thank you for your attention to this issue. Please contact the HIV Health Care Access Working Group co-chairs, Amy Killelea with the National Alliance of State & Territorial AIDS Directors (akillelea@nastad.org), Robert Greenwald with the Treatment Access Expansion Project (rgreenwa@law.harvard.edu), or Andrea Weddle with the HIV Medicine Association (aweddle@hivma.org) if we can be of assistance.

Sincerely,

HIV Health Care Access Working Group Co-Chairs

Cc:
Gary Cohen, Deputy Administrator and Director, Center for Consumer Information and Oversight
Caya B. Lewis, Counselor to the Secretary for Science and Public Health, U.S. Department of Health and Human Services
Leon Rodriguez, Director, U.S. Department of Health and Human Services – Office of Civil Rights
Laura Cheever, Associate Administrator, Human Resources and Services Administration – HIV/AIDS Bureau
Heather Hauck, Director, Division of State HIV/AIDS Programs, Human Resources and Services Administration – HIV/AIDS Bureau

HHCAWG is a coalition of more than 100 national and community-based organizations representing people living with HIV, HIV medical providers, public health professionals, and advocates who are committed to ensuring access to vital HIV-related prevention, care, and treatment services.

² Section 1557 of the ACA extends federal non-discrimination practices to the healthcare system, including the American with Disabilities Act which protects people living with HIV/AIDS.