Michigan League FOR Human Services

January 31, 2012

Secretary Kathleen Sebelius
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Essential Health Benefits Bulletin, Center for Consumer Information and Insurance Oversight (CCIIO)

Dear Secretary Sebelius:

On behalf of the Michigan League for Human Services, a statewide network of more than 1,500 organizations and individuals, I am writing to provide comments on the Health and Human Services' (HHS) *Essential Health Benefits* Bulletin issued December 16, 2011.

Overall, we believe the Bulletin provides too much flexibility to the states and insurance companies in the design of their Essential Health Benefits (EHB) packages. With such flexibility, the final benefit package could fall short of the robust, comprehensive coverage contemplated by the Affordable Care Act (ACA). We believe it is critical for HHS to establish a clear minimum threshold of benefits and allow states the flexibility to build from there, rather than allow states to establish their own essential benefits package "floors." Successful implementation of ACA relies on your office establishing a strong "floor" of consistent, basic coverage across the country. The ACA further requires the Secretary to determine standards, ensuring an appropriate balance among benefit categories as well as take into account a number of other "elements for consideration," including such issues as the health care needs of diverse populations, ensuring benefit designs do not discriminate against individuals based on age, health status, disability to name a few. It is not clear that HHS has the authority to delegate these critical decisions to the states.

Allowing insurance companies the opportunity to substitute benefits within and across the 10 required categories may not be in the best interest of consumers. Insurance companies could establish benefits which favor their bottom lines or healthier individuals while consumers could be left confused, with another level of complexity in choosing a plan, and potentially without the services they need.

The currently proposed default for a state's benchmark plan, the largest small group market plan with the highest enrollment (augmented by services required but not included in that plan), may be inadequate, particularly for the new populations gaining coverage. Small employer plans do not typically offer robust coverage, but do typically require significant out-of-pocket costs to make the plans affordable for the employers. As you well know, high cost sharing requirements discourage utilization of needed services as well as adherence to prescribed treatments.

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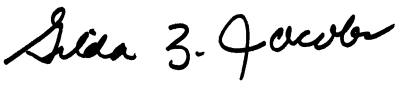
The bulletin does not address the process or timeframe for establishing the essential health benefits package, nor does it define how consumers will be included. A transparent process with consumer input is essential to help consumers gain confidence that their best interests, rather than those of the insurance companies, are being considered. In addition, the annual process to update the EHB package also needs to be defined and include consumer experience and feedback.

The Affordable Care Act provides an unprecedented opportunity to provide all Americans with access to affordable, quality healthcare. We urge you to continue your strong leadership in the implementation of the ACA and not yield to insurance industry pressures over consumer needs. Michigan's low-income, uninsured and under-insured residents need your strong guidance in establishing the essential benefits package to meet their needs and provide the experience promised in the law. Additionally, a transparent process for establishing and updating the EHB package, including meaningful opportunities for public participation, will be key to protecting the interests of all consumers. We do not believe this Bulletin, as drafted, can achieve these outcomes.

We appreciate the opportunity to provide comments and to work with your office as you review stakeholder comments and revise your plans to create an EHB standard that is consistent with the letter and intent of the law.

Warmest regards,



Gilda Z. Jacobs
President & CEO

cc: Cindy Mann, Deputy Administrator and Director, Center for Medicaid, CHIP, and Survey and Certification

Steven B. Larsen, Deputy Administrator and Director, Center for Consumer Information and Insurance Oversight (CCIIO)

Timothy Hill, Deputy Center & Policy Director, CCIIO

William Rustem, Director of Strategy, Executive Office of the Governor

Honorable James Marleau, Chairperson, Senate Health Policy Committee

Honorable Gail Haines, Chairperson, House Health Policy Committee

Olga Dazzo, Director, Michigan Department of Community Health

Kevin Clinton, Commissioner, Office of Financial and Insurance Regulation

Chris Priest, Director, Bureau of Michigan Medicaid Policy and Health System Innovation