December 21, 2015

The Honorable Sylvia Mathews Burwell
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

ATTENTION: CMS-9937-P

RE: Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2017

Dear Secretary Burwell:

The Diabetes Advocacy Alliance (DAA) appreciates the opportunity to comment on the proposed rule regarding benefit and payment parameters for 2017. The DAA is a coalition of 20 diverse member organizations, representing patient, professional and trade associations, other non-profit organizations, and corporations, all united in the desire to change the way diabetes is viewed and treated in America. The DAA is committed to protecting the nearly 30 million Americans with diabetes and the additional 86 million who are at risk of developing the disease.

As you know, approximately 10 million Americans, including many with diabetes, have benefited from the coverage expansion included in the Affordable Care Act (ACA). The DAA supports continued progress in making insurance accessible and affordable to patients throughout the country; equally as important is ensuring that the coverage provided in state marketplaces is high-quality and meets the needs of patients including those with multiple chronic conditions. The Alliance offers the following comments in regard to the proposed 2017 payment notice.

Prohibition on Discrimination

The DAA believes patients should be confident that all marketplace plans meet federally established minimum standards related to non-discrimination. Plans should not make coverage decisions, determine reimbursement rates, establish incentive programs, or design benefits in ways that discriminate against individuals because of their age, disability, expected length of life, etc. We strongly support HHS' commitment to ensuring that plans do not discriminate through benefit design or through other factors, including but not limited to those mentioned above. Given the role states have in reviewing health plans for compliance related to non-discrimination standards and their limited infrastructure and resources to conduct such reviews, the DAA urges HHS to closely monitor whether states are appropriately enforcing compliance, to provide specific guidance related to compliance reviews, and when necessary, take enforcement action.

Affordability

In the 2017 proposed rule, HHS follows the existing methodology for calculating the maximum annual out-of-pocket cost sharing limit for plans resulting in a $300 increase over last year's $500 increase. This methodology raises the annual cost-sharing limit to $7,150 for individual coverage and $14,300 for family coverage. For people managing a chronic disease like diabetes, cost-sharing has huge implications on their ability to achieve desired health outcomes. It has been widely studied[1] that patient adherence to therapy relies significantly on affordability and changes in cost sharing. For people with diabetes, non-adherence and poor disease self-management are likely to lead to dangerous and costly complications and hospitalizations, negating our interests and desire to improve health outcomes for this population. Patient protections related to the affordability of health coverage are critically important to maintain and expand on the current success of health insurance marketplaces. The DAA would support a proposal which increases the out-of-pocket maximum in exchange for reduced cost-sharing for day-to-day diabetes management needs. Reduced cost-sharing will enable patients to access the therapies and services they need to successfully manage their disease and reduce their risk of severe complications like blindness, amputations, and kidney disease. The amount of an annual out-of-pocket maximum is meaningless to a patient who cannot afford the daily or monthly costs to manage their disease.

Appeals Process

The DAA supports an effective appeals and exceptions process to ensure patient access to medications not included on a plan's formulary. The DAA is concerned that under the 2017 payment notice, insurers are allowed additional time – potentially months – to provide an external review. Under existing rules, a standard exception request must be completed within 72 hours and an external review of an expedited request within 24 hours. While we recognize HHS is attempting to reconcile existing coverage appeal laws with the new Essential Health Benefits (EHB) exception request rules, the DAA urges HHS to consider the needs of patients and the burden such a process will place on them during a time when they are in need, sometimes urgently, of access to therapies. We urge HHS not to adopt the proposed changes and instead maintain the original timeframes.

Network Adequacy

The DAA commends HHS for proposals in the 2017 payment notice related to patient cost sharing for out-of-network provider services furnished in an in-network setting and urges you to include them in the final rule. Patients, including those with diabetes, need and deserve qualified health plans (QHPs) to provide protections in situations where they are treated by an out-of-network provider at an in-network facility. Requiring QHPs to limit cost sharing under

[1] Gibson TB, Song X, Alemayehu B, Wang SS, Waddell JL, Bouchard JR, and Forma F. Cost sharing, adherence, and health outcomes in patients with diabetes. *The American Journal of Managed Care*. 2010; 16(8): 589-600.

the plan unless the QHP issuer has provided the enrollee written notice at least 10 business days prior to the service will provide relief and clarity to the patient. Of particular importance, is that a patient is not faced with out-of-network costs when receiving urgent care in an in-network facility provided by an out-of-network provider.

The DAA appreciates the opportunity to provide comments on the proposed 2017 payment notice. If you have any questions or need any further information relating to our comments, please do not hesitate to contact of the DAA Co-chairs: Tricia Brooks at tiib@novonordisk.com, Mary Pat Raimondi at mraimondi@eatright.org or Dr. Henry Rodriguez at hrodrig1@health.usf.edu.

Sincerely,

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DAA Co-Chair	DAA Co-Chair	DAA Co-Chair