National Association of Public Hospitals and Health Systems

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Gary Cohen
The Center for Consumer Information & Insurance Oversight
U.S. Department of Health & Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, SW
Washington, DC 20201

Ref: Affordable Exchange Guidance: Letter to Issuers on Federally-facilitated and State Partnership Exchanges

Dear Mr. Cohen,

The National Association of Public Hospitals and Health Systems (NAPH) appreciates the opportunity to submit this letter on the above-mentioned guidance to issuers regarding the federally-facilitated and state partnership exchanges. NAPH represents over 200 hospitals and health systems around the country. These health systems predominately serve the uninsured and patients covered by public programs—many of these patients, at some point, are likely to seek coverage through the health benefit exchanges established under the Affordable Care Act (ACA). In 2010, more than half of all NAPH member discharges and outpatient visits were either for uninsured or Medicaid patients. While NAPH members represent only 2 percent of the acute care hospitals in the country, they provided 20 percent of all hospital uncompensated care in 2010. As such, NAPH and its member hospitals are concerned that the Center for Consumer Information & Insurance Oversight's (CCIIO's) guidance is not adequate to ensure that as they transition into the exchanges, low-income populations will continue to have access to the providers that typically serve them.

As CCIIO continues to fine tune the framework for health benefit exchanges, we ask you to keep in mind the importance of safety net health systems to the success of the exchanges. A large majority of the individuals who will be covered through the exchanges will be formerly uninsured or Medicaid, low-income populations qualifying for federal subsidies. Given the large share of the existing uninsured population currently served by NAPH members, our hospitals and health systems have valuable experience treating many of the people who will gain coverage through the exchanges. NAPH members will also provide care for an expanded Medicaid

population, some portion of whom could shift into and out of insurance coverage or between eligibility for Medicaid and plans offered in the exchange.

The success of the coverage expansion through the exchanges is critical to ensuring that patients have access to care. NAPH hospitals and health systems will likely continue to provide that access for the low-income patient populations. The strength of the plans offered on the exchanges and the types of participating providers will be vital to ensuring that patients that gain coverage have access to care. Additionally, the strength of payment levels offered by exchange plans will be critical in ensuring NAPH members' ability to provide care and access to low-income patient populations, without having to continue to face the extraordinary levels of uncompensated care present under the current system.

The ACA requires qualified health plans (QHPs) to include essential community providers (ECPs) in the plans' networks and CCIIO's guidance requires QHP issuers to demonstrate compliance with this requirement through an application process. CCIIO requires that the application show that plans meet either a "safe harbor" or the "minimum expectation" standard.

The safe harbor standard requires that

- applications demonstrate at least 20 percent of available ECPs in the plan's service area participate in the provider network;
- plans offer contracts to all available Indian providers; and
- plans offer contracts to at least one ECP in each ECP category in each county in the service area.

The minimum expectation standard requires that

- applications demonstrate that at least 10 percent of ECPs in the plan area participate in the plan's provider network, and
- applications include a narrative justification explaining how the plan's network adequately provides care for low-income and medically underserved enrollees.

Additionally, for issuers that do not meet either standard, the application must include a narrative of how the provider network will ensure access for low-income and medically underserved enrollees and how ECP participation will be increased in the future.

NAPH urges the agency to further clarify the standards for QHPs as they determine which ECPs to include in their provider networks. The agency should require that QHPs, to meet network adequacy standards, include any willing ECPs in their service areas that are major safety net hospital providers, the hospitals that predominately serve low-income medically underserved individuals. This inclusion is critical to low-income patients' access to services as they transition into the exchanges. NAPH appreciates that the additional guidance offers specifics on how QHPs will meet the requirements to include ECPs in their provider networks. However, in the current guidance, there is concern that the standards for QHP issuers are not specific enough to ensure that low-income patient populations will continue to have access to the providers who typically treat them. CCIIO should amend the minimum expectation standards to require QHP issuers to offer contracts to at least one ECP in each ECP category in each county of the QHP's service area in the application. Additionally, the submission of a narrative for those QHPs who do not

meet either standard is not stringent enough to ensure that low-income and medically underserved enrollees continue to have access to care.

Because of their prominent role in caring for the underserved in many communities, patient care is threatened if QHPs are not specifically required, at a minimum, to offer contracts to the major safety net hospital providers in the plan's service area. The standards spelled out in current guidance leave room for QHPs to exclude safety net hospital providers. Safety net hospital providers provide their communities the full continuum of care. Not only do safety net hospitals provide inpatient and ambulatory care, they provide essential services to patients in the community, such as interpretation and other specialized services. Safety net hospitals are providers who have deep experience and a long history of providing culturally sensitive care to diverse, low-income populations. Due to these well-established patient-provider relationships, it is likely that many patients will continue to seek care from their traditional providers regardless of whether these providers are included in their exchange plan networks, as has been demonstrated in Massachusetts where coverage expanded several years ago. If those providers are not included in the QHPs, their patients may have to disrupt their care relationships and find new providers, or stay with their current providers and face additional out-of-pocket costs.

To ensure patients' uninterrupted, ongoing access to their current providers, NAPH urges CCIIO to ensure safety net hospital providers are given the option to be included in QHP provider networks. We believe the current requirements do not ensure this access. For example, a QHP issuer looking to operate in the Kansas City, Mo., market would only have to contract with five ECPs, out of the 26 total ECPs on the non-exhaustive ECP list, to meet the safe harbor standard; or three ECPs to meet the minimum expectation standard. Without being required to contract with providers that predominately serve the low-income and medically underserved, a QHP could exclude the major safety net provider for Kansas City, which operates two of the four ECP hospitals in the county. In Franklin County, Ohio, a QHP would only need to contract with six ECPs to meet the safe harbor standard and three ECPs to meet the minimum expectation standard. A safety net hospital provider in Franklin County, that has a history of providing care for vulnerable populations and its community, is one of four ECP hospitals and one of 31 total ECPs regardless of category in its county.

As demonstrated, there are a number of ECPs that a QHP can choose from to include in their provider networks that meet CCIIOs standards, but that does not guarantee the incorporation of the major safety net providers that treat low-income populations in their networks. We believe that not specifying the inclusion of any willing providers that predominately care for low-income and medically underserved populations in QHP provider networks would be a great disservice to the patients for whom these hospitals provide care and know best. **NAPH urges CCIIO to reconsider the standards set out in the guidance to incorporate the willing ECPs that are safety net hospital providers in QHP service areas. Safety net hospitals predominately serve low-income, medically underserved individuals and including those providers would ensure preservation of traditional provider-patient relationships and patient choice.**

NAPH member hospitals have been serving the low-income and medically underserved populations since their inception. Through the quality of care they provide, NAPH hospitals are the primary providers for many in their communities, especially the uninsured. Allowing

standards that could lead to the exclusion of these providers would only serve to disrupt the continuum of care for these patient populations.

NAPH appreciates the opportunity to submit this letter and looks forward to providing more feedback on other aspects of the exchange program. If you have any questions, please contact Xiaoyi Huang at (202) 585-0127.

Sincerely,

Bruce Siegel, MD, MPH
President and Chief Executive Officer