HIV Health Care Access Working Group

May 6, 2013

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention CMS-9955-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

To Whom It May Concern:

We are writing on behalf of the HIV Health Care Access Working Group (HHCAWG) – a coalition of over 100 national and community-based HIV service organizations representing HIV medical providers, public health professionals, advocates, and people living with HIV who are all committed to ensuring access to critical HIV-related health care and support services. We appreciate the opportunity to comment on the proposed rule regarding standards for Navigators and Non-Navigator assistance personnel.

The Affordable Care Act’s (ACA’s) public and private insurance reforms will expand access to care for tens of thousands of currently uninsured and underinsured people living with HIV. However, navigating the transition from Ryan White Program funded care and treatment to the new health insurance coverage options will be difficult and will require assistance by trained consumer outreach and enrollment personnel to avoid harmful disruptions in care and treatment for this population.

As we saw in the Medicare Part D transition, applicants living with chronic and complex conditions like HIV must be able to make an informed choice from multiple plan options to choose the benefits plan and provider networks that best meet their care, treatment, and affordability needs. This population must also be able to access vital enabling services through the Ryan White Program, including AIDS Drug Assistance Programs (ADAPs). These enabling services are not typically covered by public or private insurance, but are essential to keeping people engaged in care.

In finalizing the standards for Navigators and non-Navigator assisters, we urge HHS to ensure that outreach and enrollment specialists with experience working with the Ryan White population are incorporated into these programs and that all Navigator and non-Navigator assistance training includes information regarding essential public health programs such as the Ryan White Program. The HHCAWG would be happy to work with you on the review or development of HIV-specific training materials and resources. To the extent possible, we also urge HHS to encourage states that are developing state-funded assister programs to adopt these standards.
With this in mind, we strongly urge HHS to consider the following:

**Role of Agents and Brokers in Patient Navigator Program**
We strongly support the explicit prohibition on requiring a Navigator to be an insurance agent or broker. We also support the proposed amendment to §155.210(c)(1)(iii) stating that licensing, certification, or other standards set forth by the exchange may not prevent application of other applicable provisions of title I of the ACA (including requirements that Navigators be able to offer assistance for those eligible for public programs such as Medicaid or private insurance subsidies).

**Conflict of Interest Standards**
We support the proposed standards aimed at mitigating potential conflict-of-interests for Navigators and non-Navigator assisters, including prohibitions on receipt of any direct or indirect consideration from issuers in connection with enrollment of individuals into a particular Qualified Health Plan (QHP). We support the requirement that Navigators submit a written attestation that the Navigator entity and staff do not have any prohibited conflicts of interest. We also support the requirement that Navigator entities submit a written plan detailing how they will remain free of conflicts of interest moving forward. Finally, we support application of the conflict of interest standards to certified application counselors as well.

**Consumer Information about Range of QHP Options and Insurance Affordability Programs**
We strongly support the requirement that Navigators be able to provide information to consumers about the full range of QHP options as well as other insurance affordability programs for which people might be eligible. This information must also include resources and referrals to other state and federal public health programs, including the Ryan White Program and ADAPs. This information will be particularly important to ensure that people living with HIV have access to the range of services they need to stay in care, including assistance from ADAPs to help consumers meet prohibitive cost-sharing and premium obligations. Patient Navigators, in-person assisters, and certified application counselors should work closely with state HIV/AIDS programs and providers to ensure that all consumer assistance programs and personnel are able to refer consumers to these programs.

While we support the requirement that Navigators provide fair, accurate, and impartial information to the range of applicants who will be entering coverage through the exchange/marketplace, we urge HHS to reconsider the requirement that every Navigator be able to assist small employers to select QHPs in the Small Business Health Options exchanges (SHOP). Though it will be important to ensure expertise for SHOP application and enrollment, we believe that this could be better accomplished by ensuring that a certain percentage of Patient Navigator entities have meaningful small business-related connections, expertise and capacity. We are concerned that requiring that all Navigators have these specialized skills will create barriers for community-based organizations geared toward low-income and vulnerable populations to becoming Navigators.
Training Standards for Navigators and Non-Navigator Assistance Personnel

We support the requirement that training standards developed by the exchanges/marketplaces ensure expertise in eligibility and enrollment rules and procedures, QHP options and insurance affordability programs, and the needs of underserved and vulnerable populations. Ensuring that consumer assistance personnel are able to reach populations that may not be familiar with private or public insurance and assist them in enrolling in a program and insurance plan that best meets their needs is essential to making the ACA insurance expansions work for people living with chronic conditions such as HIV. It is imperative that populations living with chronic and complex conditions are able to identify the QHP that allows them to continue to see their health care providers, covers their prescription drugs, and is affordable. Training must also include information and resources with regard to other public health programs, such as the Ryan White Program and ADAP. We support the requirement that training modules include privacy and security requirements related to protected health information and urge inclusion of state-specific or condition-specific confidentiality and privacy laws where applicable (e.g., HIV-specific laws). Training modules and certification examinations should be made available via webinars or internet-based modules as much as possible.

Finally, because the Navigator program has limited funding, we strongly urge HHS to make the training component of the Navigator program and other in-person assister training available to interested entities (including HIV/AIDS programs within state health departments and HIV/AIDS community-based organizations and providers) regardless of whether these entities receive additional grant funding. There will be many outreach and enrollment programs and community-based organizations who will not be able to become a funded Patient Navigator or assister; however, these entities will continue to be the first line of communication with people living with HIV as they prepare for new insurance coverage options through the ACA. The certified application counselor program may be another opportunity to ensure that individuals and organizations who have expertise in outreach to vulnerable populations receive training and resources to enable them to assist clients in understanding, applying for, and enrolling in new coverage options. It is essential that providers and community-based organizations who are already engaged in consumer outreach and enrollment functions are able to access training and resources to better enable them to provide information and assistance to consumers.

Language and Access Standards

We strongly support the requirements set forth in §§ 155.205(d) and (e) requiring consumer assistance, outreach, and education activities to be available in plain language and to accessible for individuals who have limited English proficiency (including meeting the Culturally and Linguistically Appropriate Services – CLAS – standards). Navigators and other assister personnel must be able to meet the needs of the communities in which they are working and to provide services in a way that is culturally competent. Ensuring provision of culturally competent assistance, outreach, and education activities is particularly important to ensure that stigmatized and vulnerable populations – for instance, the LGBT community, people living with HIV, and people with mental health or substance use disorder needs – have meaningful access to insurance assistance. These standards must also include assurance that people can access Navigator and non-Navigator assister services outside of normal business hours.
**Monitoring and Enforcement**

We strongly support efforts to monitor Navigator programs to ensure that they are reaching vulnerable and underserved populations. We recommend that HHS develop a feedback mechanism – such as an advisory group or point person within the exchange/marketplaces – to support regular communication with key stakeholder groups, particularly from underserved and vulnerable populations. We also urge HHS to track applications that are completed with the assistance of Navigators to monitor the quality of the assistance and the populations that Navigators are serving.

Thank you for the opportunity to comment on this regulation. We appreciate the commitment HHS has shown to implementing the ACA in ways that ensure that people living with HIV and other chronic conditions have access to high-quality, affordable health care coverage. Please contact Amy Killelea with the National Alliance of State & Territorial AIDS Directors (akillelea@nastad.org), Andrea Weddle with the HIV Medicine Association (aweddle@hivma.org), or Robert Greenwald with the Treatment Access Expansion Project (rgreenwa@law.harvard.edu) if we can be of assistance.

Respectfully Submitted by the Steering Committee of the HIV Health Care Access Working Group,