HIV Health Care Access Working Group

June 18, 2012

Steve Larsen
Director, Center for Consumer Information and Insurance Oversight
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Re: Federal Guidance on Federally-Facilitated Exchanges

Dear Mr. Larsen:

We are writing on behalf of the HIV Health Care Access Working Group – 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 urge you to ensure that federally facilitated exchanges (FFEs) are implemented in ways that engage relevant stakeholders, ensure federal oversight over plan certification requirements, and promote coordination with Medicaid, the Ryan White Program, and insurance affordability programs.

For many low-income people living with HIV – a population that has historically been shut out of the private health insurance market – the exchanges will allow access to private coverage for the first time, making it imperative that outreach, application, enrollment, and benefits provisions be designed in ways that work for vulnerable populations. For instance, coordination with existing HIV programs is essential to ensure uninterrupted access to care as people living with HIV transition from Ryan White Program services to new and more comprehensive coverage products. This coordination must include seamless integration of Ryan White Program providers into exchange provider networks and culturally competent outreach and navigation assistance to current Ryan White Program consumers. In addition, it is clear that a number of states will not be operating state-based exchanges in 2014, making it essential that FFE and partnership models have strong national standards and are implemented in ways that increase seamless access to care for people living with HIV. To ensure the successful design and implementation of FFEs, we urge HHS to consider the following:

1. **FFE design and implementation must include meaningful stakeholder engagement opportunities**
   A variety of stakeholders – including consumers, advocates for enrolling hard-to-reach populations, health care providers, and public health experts – must be actively engaged in the design and implementation of FFEs to ensure that FFEs are responsive to the needs of people living with HIV and other vulnerable populations. In addition to “implementation sessions” and opportunities for community dialogue mentioned in the bulletin, we urge HHS to reach out directly to community-based organizations, HIV providers (including Ryan White providers), state offices of HIV/AIDS, and people living with HIV and to ensure that there are meaningful opportunities for public comment and participation as important implementation decisions are made. We urge HHS not to automatically defer to the National Association of Insurance Commissioners or the state insurance commissioner to oversee stakeholder engagement and, instead, urge HHS to implement an advisory group structure with various working groups and a transparent input and recommendation process.
Many states that are implementing state-based exchanges have already adopted this model for stakeholder engagement. In states that adopt a partnership model, we urge HHS to closely monitor stakeholder engagement activities undertaken by designated state agents to ensure that a diverse range of stakeholders are included in implementation. Engaging the HIV community in this process will ensure that transition to insurance coverage is smooth and will avoid harmful disruptions in care and treatment.

2. **Qualified Health Plan (QHP) certification processes must ensure access to plans that meet the ACA requirements**
   Adequate processes to certify QHPs will be essential to ensuring that consumers have access to meaningful coverage. Certification standards that protect against discriminatory insurance practices and delineate robust network adequacy standards will be particularly important to ensure that people living with HIV and other chronic medical conditions have access to plans that meet their care and treatment needs. Though we recognize the need to preserve the traditional state insurance oversight role wherever possible and particularly in plan management partnership models, we urge HHS to ensure that state standards truly meet the ACA requirements by engaging in a meaningful federal assessment of state attestations. The discrimination protections included in the ACA and in the final exchange establishment regulations may be a new area for state insurance regulation, and HHS must have oversight and enforcement mechanisms in place to ensure that plans are complying with these non-discrimination mandates and protections. This oversight will be particularly important where state standards and oversight for certain plan features are not as robust as those required for QHPs under the ACA. For instance, the ACA and subsequent exchange establishment regulations encourage states to adopt robust criteria around network adequacy and the definition of “essential community providers.” We urge HHS to ensure that there are adequate federal protections and standards that include access to HIV providers, including ensuring that Ryan White Program providers are included in plan networks as essential community providers.

3. **Eligibility determinations and assessments made by FFEs must be coordinated with Medicaid and other insurance affordability programs to ensure seamless access to coverage**
   In 2014, millions of Americans will become newly eligible for public and private insurance coverage, including many people living with HIV and other chronic conditions. To ensure that enrollment and application systems work for these populations, there must be coordination between the FFE, Medicaid, insurance affordability programs, and the Ryan White Program. HHS should work closely with state officials – including state Medicaid offices and state offices of HIV/AIDS – to ensure that applicants are connected to the appropriate program through a single application and are able to maintain coverage and uninterrupted access to care. In addition, we understand that the FFE will not be conducting eligibility determinations for non-MAGI populations (e.g., people eligible on the basis of a disability). We urge HHS to issue additional guidance regarding how a FFE will coordinate with a state Medicaid program to ensure that those who are potentially eligible on a MAGI and non-MAGI basis are able to access the appropriate Medicaid benefits package.

   We were also pleased to see that HHS will be considering an amendment to the final Medicaid and exchange eligibility regulations regarding Medicaid eligibility determinations made by exchanges. We support engaging private entities in eligibility assessments/evaluations, but support amending the final rules to prohibit final Medicaid eligibility determinations from being made by private contractors.
4. **The Navigator Program is an essential part of the exchange and must be able to reach vulnerable populations, including people living with HIV**

We strongly urge HHS to implement the Navigator Program for FFES in ways that utilize existing expertise in reaching out to vulnerable populations and that ensure that the populations who will most benefit from increased access to insurance coverage are able to apply for and enroll in coverage. Navigators must be able to give applicants information about a range of programs, including subsidized private insurance options, Medicaid, and other insurance affordability programs. To meet the goals of the Navigator Program, we support robust linguistic and cultural competence standards for Navigators to ensure that they are able to provide information and outreach to vulnerable populations. In addition, we support provisions that utilize Ryan White case managers and other non-medical providers, who are already skilled at outreach and benefits coordination for people living with HIV, as patient Navigators. This is particularly important for people living with HIV who will be moving into a new care system and will need specialized information about which coverage option will ensure the most appropriate package of benefits and ensure uninterrupted access to care. It will also be important for Navigators to be familiar with third party insurance payment systems (such as the current use of Ryan White funding to pay beneficiary premiums and cost sharing) to be able to assist patients in meeting out-of-pocket obligations. Any proposed standards and certification criteria for the FFE Navigator Programs should be open to public comment.

We appreciate the opportunity to comment on the approach HHS intends to take to implement the FFE option. Please contact Amy Killelea at the National Alliance of State & Territorial AIDS Directors (NASTAD) with any questions regarding these comments (akillelea@NASTAD.org).

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