National
Family Planning
& Reproductive Health Association

December 1, 2016

US Department of Health and Human Services
Center for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
200 Independence Avenue, SW
Washington, DC 20201

Re: **2018 Letter to Issuers**

The National Family Planning & Reproductive Health Association (NFPRHA) is pleased to respond to the draft 2018 Letter to Issuers put forth by the US Department of Health and Human Services' (HHS) Centers for Medicare & Medicaid Services' (CMS) Center for Consumer Information and Insurance Oversight (CCIIO).

NFPRHA is a national membership organization representing providers and administrators committed to helping people get the family planning education and care they need to make the best choices for themselves and their loved ones. NFPRHA's members operate or fund a network of nearly 5,000 health centers and service sites that provide high-quality family planning and other preventive health services to millions of low-income, uninsured, or underinsured individuals in 50 states, the District of Columbia, as well as US territories. Services are provided through state, county, and local health departments as well as hospitals, family planning councils, Planned Parenthoods, federally qualified health centers, and other private nonprofit organizations.

NFPRHA commends CMS and CCIIO for their ongoing commitment to increasing coverage, particularly for low-income and medically underserved individuals, and ensuring adequate access to a patient's provider of choice.

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ESSENTIAL COMMUNITY PROVIDERS

NFPRHA urges CCIIO to increase the ECP quantitative participation standard percentage.

NFPRHA requests that CCIIO take this final opportunity under the Obama administration to increase the ECP quantitative participation standard percentage from the 30% standard that

has been in place since 2015. According to CCIIO's own information, plans have not, thus far, struggled to meet the 30% threshold. Given their relative ease in meeting the current threshold and the improved data available through the ECP petition process, the time is right to increase the threshold and require a larger percentage of ECPs to be included in QHP networks. Furthermore, since many of the newly insured individuals seeking access through FFM plans were previously uninsured and accessed health care through the safety net, maintaining their ability to access their existing, trusted family planning providers and other ECPs is important. In addition, through Medicaid expansion and advanced premium tax credits for people between 100% and 400% of the federal poverty line, the ACA has increased the number of low-income Americans with health insurance coverage. These individuals will likely be an increasing percentage of the patient population of safety-net family planning health centers, given that millions of these women and men rely on family planning health centers for a wide range of preventive health services. It is imperative that Title X-funded health centers and Title X look-alikes continue to be included in QHP networks to ensure that their patients who may become newly insured under the ACA can continue to be able to access their services.

NFPRHA asks that CMS strengthen the ECP sufficiency standard to require that a contract is established with, rather than merely offered to, at least one ECP in each ECP category to meet the requirement. Robust monitoring of networks is just as important as the initial certification period.

NFPRHA requests that CMS strengthen the ECP standard by requiring that QHPs establish contracts with one ECP in each category rather than just showing contracts were offered. Allowing QHPs to offer rather than establish legal agreement erodes the overall goal of the guidance and could possibly allow plans to offer contracts but not follow through on them. Further, the good faith standard should be strengthened to require that the comparison plan for a similarly situated, non-ECP provider be a contract that would be considered median in terms of reimbursement rates. NFPRHA is concerned that without additional clarification issuers could use a low-reimbursing contract as verification, forcing ECPs into lower reimbursement rate contracts.

Continual monitoring of QHP networks is as important as the initial certification period. Because contracts can be added, amended, or dropped throughout the plan year, there is the possibility that issuers can submit a robust network plan without maintaining the network throughout the year. This could cause access to health care to be diminished for plan enrollees, who may be unable to change plans throughout the year.

NETWORK ADEQUACY

NFPRHA urges HHS to include the inclusion of family planning and sexual health providers into network adequacy standards and the pilot network breadth tool.

NFPRHA appreciate HHS efforts to ensure plans meet minimum network adequacy standards and to rate each QHP's relative network breadth on HealthCare.gov. It is critically important that QHPs maintain provider networks that meet the needs of the communities they serve, and that consumers understand the breadth of a plan's network, helping them make a meaningful choice in coverage.

Women comprise the majority of the Marketplace population. Approximately 2.5 million women who access the Marketplace are of reproductive age (18-44). Many of these women see their family planning and sexual health provider most frequently, and often use that practitioner as their primary care provider. Six in ten patients seeking care at a Title X-funded health center report that health center as their primary source of care. Four in ten patients report their Title X-funded health center as their **only** source of care. It is critical that women who access coverage through the Marketplace can accurately ascertain if a plan's network includes their trusted sources of family planning and sexual health care, and that there are plan options available that include those clinicians in provider networks.

Without the network breadth tool including specific information about the accessibility of these providers, the tool could be harmful – and not helpful – to a woman's ability to access care. HHS should ensure that any additions to the network breadth tool with respect to family planning and sexual health providers should encompass not only OB/GYNs, but the full range of providers of this care, which includes nurse practitioners, certified nurse midwives, physician assistants, and other non-physician practitioners. Furthermore, NFPRHA urges HHS to ensure that the network breadth tool explicitly notes whether a plan excludes reproductive health services, including abortion, based on religious or moral objections.

PROVIDER TRANSITIONS

NFPRHA requests that HHS modify the notification requirements regarding a discontinued provider in order to protect patient confidentiality.

In the 2017 Benefit and Payment Parameter rule, HHS required QHP issuers in federally facilitated marketplace states to "make a good faith effort to provide written notice of a discontinued provider, 30 days prior to the effective date of the change or otherwise as soon as practicable, to all enrollees who are patients seen on a regular basis by the provider or receive primary care from the provider whose contract is being discontinued." NFPRHA continues to have concerns that this process could pose a risk to the confidentiality of minors or adult dependents who have sought family planning or sexual health services. In general,

communications from the issuer are directed to the policyholder, not necessarily the individual who is the patient of any given provider.

If a provider that is being discontinued from the network is obviously a provider of family planning and sexual health services, and the patient that has been seeking those services is a minor or adult dependent who wishes to keep those services confidential from the policyholder, this notification could pose a risk to the dependent. NFPRHA recommends that the proposed notification requirement be revised so that the issuer be required to notify all enrollees of a provider discontinuation, regardless of whether or not that enrollee is an existing or regular patient of said provider. This revised notification process would accomplish the same goal of provider network transparency while protecting patient confidentiality and keep all enrollees informed of changes in the provider network throughout the year. The notifications could be batched on a monthly basis, e.g., all of the providers being discontinued in a calendar month could be included in the same notification, to improve efficiency.

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NFPRHA appreciates the opportunity to provide comment on the draft 2018 Letter to Issuers. If you require additional information about the issues raised in this letter, please contact Mindy McGrath, Director, Advocacy & Communications, at 202-293-3114 ext. 206 or at mmcgrath@nfprha.org.

Sincerely,

Clare Coleman
President & CEO