

National
Family Planning
& Reproductive Health Association

March 7, 2017

VIA ELECTRONIC SUBMISSION

US Department of Health and Human Services
Center for Medicare & Medicaid Services
Patrick Conway, MD
Acting Administrator
Attention: CMS-9929-P
P.O. Box 8016
Baltimore, MD 21244-8016

Re: **Patient Protection and Affordable Care Act; Market Stabilization (CMS-9929-P)**

Dear Acting Administrator Conway:

The National Family Planning & Reproductive Health Association (NFPRHA) is pleased to respond to the Patient Protection and Affordable Care Act market stabilization proposed rule issued by the US Department of Health and Human Services' (HHS) Centers for Medicare & Medicaid Services (CMS) related to a broad range of Affordable Care Act (ACA) provisions, including essential community providers (ECPs).

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 more than 3,500 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.

The ACA has ensured that millions of women have access to coverage that provides a broad range of preventive health benefits, including contraception, cancer screenings, and well-woman visits, at no additional cost to the patient. Providing insurance coverage to millions of uninsured individuals is a significant advance for public health and achieving health equity for

women; however, access to coverage does not equal access to care. The ECP provision was included in the ACA to ensure that patients, particularly newly insured low-income and medically underserved patients, may continue to receive care from the safety-net providers they relied on prior to obtaining coverage.

NFPRHA commends HHS and CMS for their continued commitment to ensuring access to health care for low-income and medically underserved individuals through the ECP provision. However, NFPRHA has concerns about the proposed change to the participation threshold restricting access to important health services. As CMS continues its statutory obligation to implement the ECP provision, NFPRHA encourages CMS to strengthen protections for the most vulnerable patient populations, rather than reversing the progress that has already been made.

NFPRHA strongly urges CMS not to finalize the proposed reduction to the ECP participation threshold.

As safety-net family planning providers serving predominantly low-income and medically underserved patients, NFPRHA's members are uniquely situated to understand the barriers to coverage and access that patient population faces. With that in mind, NFPRHA is concerned that the proposed reduction in the participation threshold from 30% to 20% of ECPs in an issuer's service area could have a significantly negative impact on patient access to needed care. In fact, NFPRHA has repeatedly urged HHS to increase the 30% threshold, arguing that narrow provider networks continue to be a barrier for low-income and medically underserved patients.

Many newly insured individuals covered by Marketplace plans were previously uninsured and accessed health care through safety net programs. Maintaining the ability of these patients to access their existing, trusted family planning providers and other ECPs is important. Through Medicaid expansion and tax credits, the ACA has increased the number of low-income Americans with health insurance coverage. Many of these patients have relied, and continue to rely, on safety-net family planning health centers for a wide range of preventive health services, such as breast and cervical cancer screening and screening for sexually transmitted diseases (STDs) and HIV, as well as contraceptive counseling, services and supplies. It is imperative that family planning ECPs continue to be included in QHP networks to ensure that their patients can continue to be able to access these services.

As explained in the proposed rule, for the 2017 plan year, only six percent of issuers were unable to meet the 30% threshold and were required to submit a narrative justification of how the provider network provides adequate access for low-income and medically underserved patients. This small number of issuers indicates that the vast majority of issuers have not had difficulty achieving the 30% threshold, and arguably, have the capacity to contract with an even wider network of ECPs.

As stated in the proposed rule, the narrative justification is estimated to only take an issuer approximately 45 minutes to prepare and complete. CMS estimates that this 45 minute requirement across the 20 issuers unable to meet the 30% threshold in 2017 resulted in a total of just 15 hours and \$1,155. This “burden” is used as justification to reduce the threshold. However, the reduction in health care access would far outweigh any issuer burden by allowing the other 300+ issuers who have previously met the 30% threshold to needlessly scale back on ECPs in their provider networks.

NFPRHA encourages HHS to sunset the ECP write-in option for the 2019 plan year and beyond.

In 2015, CMS proposed eliminating the ECP write-in option, stating that the “majority of issuers have relied more heavily on ECP write-ins than on ECPs from the HHS list to satisfy the 30% standard,” implying that issuers were using the write-in option to claim contracted providers as ECPs when those providers did not actually qualify as such. NFPRHA appreciates CMS’ efforts to ensure the accuracy of HHS’ ECP list, employing the ECP provider petition to achieve one standardized list for all of the issuers in a particular service area. However, implementation of the ECP provider petition process has not been without difficulties. Providers continue to be unclear about deadlines and whether or not additional information is required from year to year. NFPRHA commends CMS’ ongoing efforts to engage the provider community and ensure that providers are accurately represented in the ECP database. NFPRHA encourages CMS to continue to engage the ECP community and to strengthen its mechanisms to inform providers about the ECP provider petition and associated deadlines.

NFPRHA supports the proposed one-year extension of the ECP write-in option for the 2018 plan year, while CMS continues to resolve problems with the petition process. However, because of the reasons outlined above, NFPRHA encourages HHS to sunset the write-in option for the 2019 plan year and beyond.

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

Sincerely,



Clare Coleman
President & CEO