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August 31, 2012

Danielle Holahan
New York State Health Benefit Exchange
New York State Department of Health

VIA e-mail exchange@health.state.ny.us

Re: Essential Health Benefits Benchmark Options

Dear Ms. Holahan:

The New York Association on Independent Living (NYAIL) is a statewide, not-for-profit membership association created by and composed of Independent Living Centers across New York State. Independent Living Centers (ILCs) are unique disability-led, cross-disability, locally administered not-for-profit organizations, providing advocacy and supports to assist people with disabilities of all ages to live independently and fully integrated in their communities. NYAIL appreciates the opportunity to comment on New York's selection of an Essential Health Benefits (EHB) benchmark plan for use in the individual and small group insurance markets.

The EHB decision is critically important for people with serious illnesses and disabilities who are at risk if the essential health benefit package is insufficient to meet their medical needs. The Affordable Care Act establishes critical nondiscrimination and parity requirements that the essential health benefits must meet. They must "take into account the health needs of diverse segments of the population, including women, children, persons with disabilities, and other groups." The law explicitly prohibits the essential health benefits from being designed in "ways that discriminate against individuals because of their age, disability, or expected life," and it "prohibits the denial of essential health benefits services based on age, life expectancy, disability, degree of medical dependency, or quality of life." The ACA also requires that all qualified health plans (QHPs) sold in an exchange and all plans sold outside the exchange in the individual market comply with the Mental Health Parity and Addiction Equity Act (MHPAEA)." The package that New York decides upon must meet the needs of all segments of the state's population, should ease the transition for consumers moving to exchange subsidized coverage upon losing eligibility for public programs, and should reflect New York's insurance philosophy and strong consumer protections currently in place.

NYAIL strongly urges the adoption of the New York State Employee Plans' Empire Plan as the best benchmark option for EHB in New York. The Empire Plan is the most comprehensive of the ten benchmark plan options. For example, it is the only benchmark

option that covers almost all of New York's individual and small group benefit mandates. It is, in fact, the plan that many Independent Living Centers around the state use for their employee coverage. More than half the employees of Independent Living Centers must have disabilities; therefore all ILCs employ people with a wide variety of mobility, hearing, visual, cognitive and psychiatric diagnoses and impairments. ILC staff have found the Empire Plan to be adequate, although some employees do supplement it with Medicaid Buy-in to cover personal assistance care and other long term care needs. Given that New York's benchmark plan must cover a much more diverse population than many small group plans currently cover, we think that it is important to offer coverage for individual purchasers that are more likely to have complex health needs.

In addition, the Empire Plan has more generous service limits on many services that are restricted by the other benchmark options, including mental health, orthotics, chemical dependence, skilled nursing facilities, home health care, physical therapy, rehabilitation therapy, occupational therapy, and speech therapy. For people with disabilities, access to services that ensure the individual can maintain their independence in the community, such as home health care, occupational and physical therapy, is critical. The Empire Plan also covers adult dental care and women's health services like medically necessary and elective abortions, infertility services, and contraception, and it does not exclude transgender-specific services. Lastly, the Empire Plan offers out-of-network benefits which can be very important to people who need to be able to easily access particular specialists for their health conditions.

New York should not reject the Empire plan as the EHB benchmark merely because of the slightly higher predicted effect on premium cost. While affordability of coverage is important to the individuals our member ILCs serve, we expect that the Exchange will bring down premium costs, and people with disabilities need the security that a comprehensive benefit package provides.

Thank you for considering our comments and recommendations. If you have questions about these comments, please contact Lindsay Miller at LMiller@ilny.org or 518-465-4650.

Sincerely,

Lindsay Miller
Director of Public Policy