August 13, 2012

Ms. Danielle Holahan
New York State Health Benefits Exchange
New York State Department of Health
Empire State Plaza
Corning Tower
Albany, NY 12237

Re: New York State's Approach to the Provision of Vision Benefits in the Health Benefit Exchange

Dear Ms. Holahan:

On behalf of the New York State Optometric Association (NYSOA), these comments are being submitted, as requested, to address the State's selection of benchmark plans for the Health Benefit Exchange and, in particular, the design of an appropriate vision benefit for New Yorkers.

Optometrists serve patients in every corner of New York State and, in many rural, urban and suburban neighborhoods throughout the State, they are the only accessible eye doctors available. Doctors of optometry provide more than two-thirds of all primary eye and vision health care in the United States and are responsible for most eye care services provided to children, for whom optometrists have long advocated for comprehensive eye examinations. While optometrists provide comprehensive routine vision examinations for both adults and children, they also render a full range of health care services that are, as noted below, otherwise included within the Essential Health Benefits.

In summary, on behalf of the patients served by optometrists, NYSOA has three principal goals with respect to the definition of Essential Health Benefits:

1. *The pediatric vision benefit offered in the Exchange should be robust enough to provide children the care they require;*
2. *The vision benefit should be fully integrated with the balance of the healthcare services offered by the plans in the Exchange;*
3. *The State's and the ACA's non-discrimination provisions, which guarantee that optometrists can fully participate in the delivery of covered services, should be fully enforced—not just to protect the interests of our members, but to ensure that patients continue to exercise choice in the selection of their eye*

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doctor and are not forced to receive uncoordinated and duplicative services from multiple providers.

Introduction and Overview: As you know, the Affordable Care Act of 2010 (ACA) identified a set of "essential health benefits" that health plans in the exchange and certain plans outside the exchange must offer starting in 2014. The scope of practice of optometrists in New York[1] includes—and optometrists routinely provide—services that fall within several of the essential health benefit categories, including:

a) Ambulatory patient services
b) Emergency Services
c) Rehabilitative and habilitative services and devices
d) Preventive and wellness service and chronic disease management
e) Pediatric services, including oral and vision care

In December 2011, the Department of Health and Human Services (HHS) announced that states would be allowed to determine the details of the essential benefits based on what is covered by so-called "benchmark" plans in the states. The first four of the optometric-related services listed above are typically included within the health benefit offered by health plans in New York, while the pediatric vision benefit is often offered through a separate vision benefit plan. According to the federal guidance, if the pediatric vision care is not included in the plan chosen by the state, then the benefit would be a comprehensive vision examination, along with coverage of the cost of materials to correct any vision errors discovered.

The pediatric vision benefit: We would strongly recommend that New York select a benchmark plan that includes a robust pediatric vision benefit that adequately satisfies the mandate for the essential benefit. As such, we recommend the selection of a benchmark plan that at a minimum provides coverage of the following items and services for individuals under 22 years of age:

- One comprehensive vision and eye health examination by an optometrist or ophthalmologist during each year; and
- Diagnosis and treatment of diseases, refractive errors, binocular disorders and injuries of the eye, adnexa and visual system, with treatment to include, but not be limited to, the use of corrective devices and other therapeutic procedures.

In addition, we recommend integrating the pediatric vision benefit with the balance of the enrollee's health coverage. HHS recognized that relying on stand-alone

[1] Section 7101 of the Education Law defines the scope of optometry as including the "diagnosing and treating optical deficiency, optical deformity, visual anomaly, muscular anomaly or disease of the human eye and adjacent tissue by prescribing, providing, adapting or fitting lenses or by prescribing, providing, adapting or
fitting non-corrective contact lenses, or by prescribing or providing orthoptics or vision training, or by prescribing and using drugs.

vision plans for essential health benefits can contribute to fragmented medical care and potentially costly duplicative coverage. Enrollees that access routine vision care through a stand-alone vision plan may be identified as needing medically necessary eye care services that are covered by their medical plan—and the State should ensure that optometrists should be permitted to provide care and services that are squarely within their scope of practice if they have not also been credentialed by the health plan. Integrating the pediatric vision benefit as a covered service in the medical plan ensures seamless coordinated care and is consistent with longstanding state statutory requirements of non-discrimination—which are now further strengthened by the ACA non-discriminatory provisions, discussed below.

Justification for comprehensive pediatric vision coverage: The ACA's inclusion of pediatric vision care is well supported. Vision disorders, including amblyopia, strabismus, and significant refractive errors, are the most prevalent disabling childhood conditions in the United States, with one in four children having some form of vision problem, as recently noted by the American Public Health Association (APHA).[2] One study estimates that about one-quarter of children between 6 and 18 wear corrective lenses.[3] Further, as also noted by the APHA, impaired vision can affect a child's cognitive, emotional, neurological and physical development, and is associated with developmental delays, lower educational attainment, and the need for special education, vocational and social services, often into adulthood.

Moreover, the Centers for Disease Control and Prevention (CDC) emphasizes that treating vision problems early may protect a child's sight, and teaching children with severe vision loss how to function as early as possible can help them reach their full potential.[4] The objectives of *Healthy People 2020* include reducing blindness and visual impairment in children and adolescents.

We understand that the proposed coverage of pediatric vision care would be *in addition to* the proposed coverage for other medically necessary pediatric medical care and well child care. It is critically important that the vision benefit not be merely subsumed within a routine well child visit. The reference to comprehensive vision and eye health examinations should include at least the following services when provided by an optometrist or ophthalmologist:

- Comprehensive ophthalmological services (a general evaluation of the complete visual system, including clinically indicated history, general medical observation, external and ophthalmoscopic examinations, gross visual fields,

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[2] American Public Health Association, Resolution A8, "Reducing Barriers and Increasing Access to Children's
Vision Care Services," Adopted November 2011.

[3] "Prevalence and Distribution of Corrective Lenses among School-Age Children," A.R. Kemper, D. Bruckman,
and G.L. Freed. *Optometry and Vision Science*, 81(1):7-10, 2004.

[4] Centers for Disease Control and Prevention, Fact Sheet, "Vision Loss,"
www.cdc.gov.ncbddd/actearly/pdf/parents_pdfs/VisionLossFact Sheet.pdf, accessed November 11, 2011.

basic sensorimotor examination, and initiation of diagnostic and treatment program), and

- Clinically indicated objective and subjective determination of the refractive state and initiation of diagnostic and treatment program.

While well child care may include vision screening, such screening is not a substitute for more comprehensive eye examinations and related diagnosis and treatment services, especially since a recent study suggests that much of what is recommended is not accomplished in well-child care visits where mere seconds are devoted to the visual system.[5] Further, a June 2009 report of the National Commission on Vision and Health found that evidence from past studies shows that comprehensive eye exams for children by an optometrist or ophthalmologist are highly effective in detecting vision conditions.[6]

Newly available data confirm that typical vision screening is insufficient to ensure optimal vision and eye health. According to the most recent prevalence study, 3.8 percent of preschoolers have significant myopia (nearsightedness), 20.9 percent have significant hyperopia (farsightedness), 10.1 percent have significant astigmatism (irregular curvature of the eye), and 2.4 percent have significant strabismus (eye turn) as assessed through eye examination.[7] In contrast, when using "visual acuity" as sole criteria, the most common methodology used in vision screening, only 5.6 percent of all preschool children were identified as warranting any concern, undoubtedly due to the fact that the Snellen eye chart predominantly assesses reduced visual acuity associated with myopia. If children are only provided with vision screening and not with a comprehensive eye examination, significant eye problems (hyperopia, astigmatism, and strabismus) will be missed and these children will be at increased risk of visual impairment, which can become a permanent disability if not treated early. For all of these reasons, Congress included pediatric vision care within the essential health benefits specified in the ACA.

Benchmark Health Plans: Congress required that the scope of the essential health benefits be equal to the typical employer plan. To establish what a typical employer plan looks like, Congress charged the Department of Labor with providing a survey of employer plans to the Secretary of Health and Human Services. The Department of Labor's survey data, provided to the Secretary of HHS in an April 2011 report, has helped to inform the Department's knowledge of the benefit content and scope of private and public sector employer plans. [8]

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[5] See "Delivery of Well-Child Care: A Look Inside the Door," C. Norlin, M.A. Crawford, C.T. Bell, X. Sheng, and
M.T. Stein. *Academic Pediatrics*, 11(1):18-26, 2011.

[6] "Building a Comprehensive Child Vision Care System." A report of the National Commission on Vision and
Health, Prepared by Abt Associates, Inc., June 2009, p. 1.

[7] National Institutes of Health The Multi-Ethnic Pediatric Eye Disease and Baltimore Pediatric Eye Disease Studies (*NEI.2011*)

[8] See U.S. Department of Labor, *Selected Medical Benefits: A Report from the Department of Labor to the Department of Health and Human Services*, April 15, 2011.

However, there are significant gaps in the data, particularly with respect to benefits such as pediatric vision care. No information is provided on the nature or extent to which pediatric vision care is covered by employer plans. The only information relates to employer-sponsored vision care that is not specifically targeted to children. Although data are not provided on the percentage of employer health plans that offer vision care, it is notable that employees with vision care tend to have similar vision benefits regardless of firm size. Moreover, for those employees with a vision care benefit, the benefit almost always includes coverage for comprehensive eye exams (99%) and glasses (100%); coverage for contact lens is nearly as high (88%).[9]

To assist in the implementation of the essential health benefits, the Secretary of HHS requested the Institute of Medicine (IOM) make recommendations on the methods for determining and updating the essential health benefits. In carrying out its charge, the IOM examined available evidence of benefit coverage in today's health insurance market including pediatric vision care. To do this, it looked at the coverage provided by three private insurers in the small group market. It found that while full pediatric vision care has not been a standard benefit of smaller employer plans, it has been available as policy riders. Moreover, the IOM noted that a Mercer employer survey data found that 44 percent of all employers (large and small) offer plans that provide pediatric vision care coverage. Although information on the nature of those services was not specified, the IOM also reported that for larger employers, pediatric vision care benefits, if offered, are likely to be offered as supplements to their standard medical plans.

To the extent that the "benchmark" plans did not include a pediatric benefit, HHS urged consideration of health insurance options offered through the Federal Employees Health Benefits Program (FEHBP), where pediatric vision care is commonly a covered benefit and consists of comprehensive eye exams and vision services (including eyeglasses and sometimes contact lenses). The more detailed nature of available information on FEHBP plan options suggests that pediatric vision care may, in fact, be more typical of coverage offered in the private market than is evident from other survey data and that such coverage generally consists of periodic (e.g. annual) comprehensive eye exams and glasses.

Integrating the vision benefit with health plans: Even though dental and vision benefits are frequently discussed together, significant differences exist between the two categories of health benefits. Vision benefits and the balance of health benefits often are extremely closely related: members of NYSOA frequently identify significant eye health issues when undertaking what may have begun as a routine comprehensive vision examination. Optometrists also typically manage the eye health needs of patients undergoing treatment for diabetes, glaucoma and other diseases, closely integrated with the provision of other health care services to these patients. It is, therefore, extremely

[9] See U.S. Department of Labor, *National Compensation Survey: Health Plan Provisions in Private Industry in the United States, 2008*. Table 47, Vision care benefits: Extent of coverage for selected services, private industry workers, National Compensation Survey, 2008. July 2009, Bulletin 2719, www.bls.gov/ncs/ebs/detailedprovisions/2008/ebbl0042.pdf

important that vision and other health benefits be fully integrated to make certain that enrollees are provided seamless comprehensive care with as little disruption as possible.

Many optometrists participate in vision carve out plans that cover routine eye examinations and coverage of eyeglasses and contact lenses. Many optometrists also participate as fully credentialed providers in health plans for care within their scope of practice—providing "medically necessary eye care" for their patients. The disconnect between the vision carve out company and health plan can provide barriers to access, impose additional and unnecessary costs and deprive beneficiaries of their choice of provider. In some cases, an optometrist that participates in vision carve out may not be credentialed by the health plan—and therefore unable to provide the medically necessary care that the patient requires, even when the care and treatment is squarely within the optometrist's legally defined scope of practice and clinical competence. As a result, the patient has to endure the expense, delay and inconvenience of contacting, scheduling and being re-examined by someone else, who may not be their chosen eye care provider.

Accordingly, every effort should be undertaken to ensure that services provided through vision plans be as coordinated as possible with the health plan and, to the extent possible, the pediatric (as well as, where applicable, any adult) vision benefit should be fully integrated and embedded within the essential health benefits offered by the health plans participating in the exchange.

Freedom of choice and anti-discrimination: Thanks to provisions of both state and federal law, the ability for optometrists to participate in managed care and insurance plans has strong legal protection. Sections 4235(f)(C) and 4301(b)(1)(C) of the Insurance Law have long guaranteed health insurance subscribers "freedom of choice" of eye care practitioners when the requested service is within the scope of practice of a licensed optometrist. Section 4403(5) of the Public Health Law provides that managed care organizations may not exclude "any appropriately licensed type of provider as a class" from their managed care network Much more recently, section 2706 of the ACA (the so-called "Harkin Amendment") precludes plans from discriminating "with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable State law." Each of these provisions speak to the importance of permitting appropriately credentialed health care practitioners, including optometrists, to fully participate in health plans for the provision of both pediatric and adult services.

Notwithstanding these provisions, some plans believe they have discharged their obligations to optometric practitioners by allowing them to participate only in the vision plan—and some practitioners choose not to provide routine vision examinations or to sell eyeglasses and are effectively unable to provide services to any of the health plan's enrollees. While some health plans have allowed vision care carve-out entities to provide coverage for "medically necessary" eye care, they are not always ideally situated to do it and the provision of care through the separate plan runs the risk of being uncoordinated with the rest of the patient's health care. In order to ensure continuity of care and broaden enrollee's choice of health care providers, it is essential that these anti-

discrimination provisions be observed by the plans that participate in the Health Benefit Exchange.

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Accordingly, we recommend that the New York State Health Benefit Exchange define a comprehensive pediatric vision benefit that fulfills Congress' intent to require that meaningful and effective vision coverage be offered to children whose families are accessing care through the Exchange. We strongly recommend that the vision benefit be fully integrated with the health coverage otherwise offered on the exchange to avoid uncoordinated, discontinuous care. We urge the State to enforce longstanding provisions of State law and recently enacted provisions of the ACA that guarantee the rights of enrollees to access care from the categories of practitioners of their choice.

We appreciate your consideration of our comments and look forward to working with you to ensure that the children of our state receive the high quality healthcare they need and deserve.

Sincerely,

NEW YORK STATE OPTOMETRIC ASSOCIATION

cc: Donna Frescatore